



2023/0439(COD)

30.4.2025

AMENDMENTS

111 - 586

Draft report
Birgit Sippel
(PE768.109v01-00)

Laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946 JHA

Proposal for a directive
(COM(2023)0755 – C9-0430/2023 – 2023/0439(COD))

Amendment 111

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Title 1

Text proposed by the Commission

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
laying down minimum rules to prevent and
counter the facilitation of unauthorised
entry, transit **and stay** in the Union, and
replacing Council Directive 2002/90/EC
and Council Framework Decision
2002/946 JHA

Amendment

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
laying down minimum rules to prevent and
counter the facilitation of unauthorised
entry **and** transit in the Union **targeting
organised criminal groups that use
violence or exploitation against migrants,
and protecting its victims**, and replacing
Council Directive 2002/90/EC and Council
Framework Decision 2002/946 JHA

Or. en

Amendment 112

Erik Marquardt

Proposal for a directive

Title 1

Text proposed by the Commission

Proposal for a DIRECTIVE OF THE
EUROPEAN PARLIAMENT AND OF
THE COUNCIL laying down minimum
rules to prevent and counter **the facilitation
of unauthorised entry, transit and stay in
the Union**, and replacing Council Directive
2002/90/EC and Council Framework
Decision 2002/946 JHA

Amendment

Proposal for a DIRECTIVE OF THE
EUROPEAN PARLIAMENT AND OF
THE COUNCIL laying down minimum
rules to prevent and counter **migrant
smuggling**, and replacing Council
Directive 2002/90/EC and Council
Framework Decision 2002/946 JHA

Or. en

Amendment 113

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Citation 1

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 83(2) thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Article **82(2), 83(1) and 83(2)** thereof,

Or. en

Amendment 114

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Citation 5 a (new)

Text proposed by the Commission

Amendment

Having regard to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, New York, 15 November 2000,

Or. en

Amendment 115

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Citation 5 b (new)

Text proposed by the Commission

Amendment

Having regard to the UN Declaration on Human Rights Defenders,

Or. en

Amendment 116

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Citation 5 c (new)

Text proposed by the Commission

Amendment

Having regard to the 1951 Geneva Convention Relating to the Status of Refugees,

Or. en

Amendment 117

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive
Recital 1

Text proposed by the Commission

Amendment

(1) The facilitation of unauthorised entry, transit and stay in the Union are criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. These criminal activities ***contribute to irregular migration, undermining the migration management objectives of the Union.*** The commission of such criminal activities is driven by increasing demand and the high profits obtained by criminal organisations. Preventing and countering those offences ***remains*** a priority for the Union.

(1) The ***organisation or*** facilitation of unauthorised entry, transit and stay in the Union are criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining high profits ***and, as in the case of the instrumentalisation and weaponisation of migration, the achievement of political or ideological objectives, are a threat to security and human life and an expression of disrespect for human dignity,*** undermining fundamental rights ***and often aiming to destabilise and cause chaos, which is linked to other types of crime such as human trafficking, forced labour, paedophilia, drug trafficking, terrorism and pimping.*** These ***organised*** criminal activities ***are the main mechanism enabling illegal*** migration, undermining the ***Union's border protection*** objectives ***and, in some cases, posing a threat to security and social cohesion.*** The commission of such criminal activities is driven by increasing demand and the high profits obtained by criminal organisations, ***external incitement, and has been made possible on such a large scale by the***

misguided migration policies of some Member States. Preventing and countering those offences, *while ensuring effective border protection and a high level of internal security*, should be a priority for the Union *and the Member States*.

Or. pl

Amendment 118

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The facilitation of unauthorised entry, transit and stay in the Union are criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. These criminal activities contribute to irregular migration, undermining the migration management objectives of the Union. The commission of such criminal activities is driven by increasing demand and the high profits obtained by criminal organisations. Preventing and countering those offences remains a priority for the Union.

Amendment

(1) The facilitation of unauthorised entry, transit and stay in the Union are criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. These criminal activities contribute to irregular migration, undermining the migration management objectives of the Union *and generating security challenges*. The commission of such criminal activities is driven by increasing demand and the high profits obtained by criminal organisations *and the individuals who lead them*. Preventing and countering those offences remains a priority for the Union. *However, this shall in no way affect the obligation to provide humanitarian assistance, which must remain fully respected in accordance with applicable international and Union law.*

Or. en

Amendment 119

Nadine Morano

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The facilitation of unauthorised entry, transit and stay in the Union are criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. These criminal activities contribute to irregular migration, ***undermining the migration management objectives of the Union.*** The commission of such criminal activities is driven by increasing demand and the high profits obtained by criminal organisations. Preventing and countering those offences remains a priority for the Union.

Amendment

(1) The facilitation of unauthorised entry, transit and stay in the Union are criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. These criminal activities ***undermine the migration management objectives of the Union. They also*** contribute to irregular migration, ***which harms the interests of legal migrants, European citizens and the sovereignty of the Member States, who alone possess the legitimate authority to determine whom they wish to host on their territories*** The commission of such criminal activities is driven by increasing demand and the high profits obtained by criminal ***networks and*** organisations. Preventing and countering those offences remains a priority for the Union.

Or. fr

Amendment 120
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The facilitation of unauthorised entry, transit ***and stay*** in the Union are criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. ***These criminal activities contribute to irregular migration, undermining the migration management objectives of the Union.*** The commission of such criminal activities is driven by increasing demand and the high

Amendment

(1) The facilitation of unauthorised entry ***and*** transit in the Union ***by organised criminal groups using violence against migrants or exploiting them*** are criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. The commission of such criminal activities is driven by increasing demand, ***due to the lack of safe and legal pathways to the***

profits obtained by criminal organisations. Preventing and countering those offences remains a priority for the Union.

Union and increased externalisation of border and migration controls to third countries, and the high profits obtained by criminal organisations. Preventing and countering those offences remains a priority for the Union.

Or. en

Amendment 121

Fabienne Keller, Raquel García Hermida-Van Der Walle, Hilde Vautmans, Irena Joveva, Jan-Christoph Oetjen

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

Sophie Wilmès

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The facilitation of unauthorised entry, transit and stay in the Union are criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining **high profits**, undermining fundamental rights. These criminal activities contribute to irregular migration, undermining the migration management objectives of the Union. The commission of such criminal activities is driven by increasing demand and the high profits obtained by criminal organisations. Preventing and countering those offences remains a priority for the Union.

Amendment

(1) The facilitation of unauthorised entry, transit and stay in the Union are criminal activities that put human life in danger, **exploit the vulnerability of individuals** and disrespect the dignity of people for the purpose of obtaining **a financial or material benefit**, undermining fundamental rights. These criminal activities contribute to irregular migration, undermining the migration management objectives of the Union. The commission of such criminal activities is driven by increasing demand and the high profits obtained by criminal organisations **or networks**. Preventing and countering those offences remains a priority for the Union.

Or. en

Amendment 122

Sebastian Tynkkynen

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The facilitation of unauthorised entry, transit and stay in the Union are criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. These criminal activities contribute to irregular migration, undermining the migration management objectives of the Union. The commission of such criminal activities is driven by increasing demand **and** the high profits obtained by criminal organisations. Preventing and countering those offences remains a priority for the Union.

Amendment

(1) The facilitation of unauthorised entry, transit and stay in the Union are criminal activities that put **both Europe's security and** human life in danger and disrespect the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. These criminal activities contribute to irregular migration, undermining the migration management objectives of the Union. The commission of such criminal activities is driven by increasing demand **associated with migration pressure and by** the high profits obtained by criminal organisations. Preventing and countering those offences remains a priority for the Union.

Or. fi

Amendment 123
Erik Marquardt

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The facilitation of unauthorised entry, **transit and stay** in the Union **are** criminal **activities that put** human life in danger and **disrespect** the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. **These criminal activities contribute to irregular migration, undermining the migration management objectives of the Union.** The commission of such criminal activities is driven by increasing demand and the high profits obtained by criminal organisations. Preventing and countering those offences remains a priority for the Union.

Amendment

(1) The facilitation of unauthorised entry in the Union **by organised criminal groups is a criminal activity that puts** human life in danger and **violates** the dignity of people for the purpose of obtaining high profits, undermining fundamental rights. The commission of such criminal activities is driven by increasing demand and the high profits obtained by criminal organisations, **both in turn driven by a lack of alternative ways for people in need of international protection to access asylum procedures in the EU.** Preventing and countering those offences remains a priority for the Union.

Or. en

Amendment 124

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1 a) The facilitation of unauthorised entry and transit in the Union by organised criminal groups has various root causes. Poverty, conflict, inequality, gender-based violence, the absence of viable employment opportunities or social support, humanitarian crises, statelessness and discrimination are among the main factors that make persons, vulnerable to this offence.

Or. en

Amendment 125

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, Elissavet Vozemberg-Vrionidi, François-Xavier Bellamy

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1 a) The smuggling of migrants is a highly lucrative criminal enterprise, generating billions annually in illicit profits. These funds are often reinvested into other criminal activities such as drug trafficking, weapons smuggling, and corruption. Disrupting this financial lifeline is essential to dismantling criminal networks.

Or. en

Amendment 126

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze,

Elissavet Vozemberg-Vrionidi, François-Xavier Bellamy

**Proposal for a directive
Recital 1 b (new)**

Text proposed by the Commission

Amendment

(1 b) Migrant smuggling networks represent a growing hybrid threat to the internal security of the Union. Their operations are increasingly linked to transnational organised crime, terrorism financing, and exploitation rings, requiring a unified and uncompromising criminal justice response.

Or. en

Amendment 127

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, Elissavet Vozemberg-Vrionidi, François-Xavier Bellamy

**Proposal for a directive
Recital 1 c (new)**

Text proposed by the Commission

Amendment

(1 c) Facilitation of unauthorised entry, transit, and stay can be carried out by individuals or small groups; however, it is increasingly executed by professionalised, violent criminal networks. While all forms of facilitation must be penalised, those involving organised crime rings pose a direct threat to Union internal security and should be sanctioned with the highest available criminal penalties.

Or. en

Amendment 128

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, Elissavet Vozemberg-Vrionidi, François-Xavier Bellamy

Proposal for a directive
Recital 1 d (new)

Text proposed by the Commission

Amendment

(1 d) The facilitation of unauthorised entry, transit, and stay may, in certain cases, be linked to attempts by state or non-state actors to instrumentalise migrants with the aim of destabilising the Union or a Member State. It is therefore essential to address such facilitation not only as a criminal offence but also as a potential threat to public order and Union security.

Or. en

Amendment 129

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive
Recital 1 e (new)

Text proposed by the Commission

Amendment

(1 e) The persistent rise in smuggling activities, despite existing penalties, demonstrates that current sanctions are insufficient. Stronger, harmonised penalties across the Union are necessary to restore deterrence and signal zero tolerance for this crime, regardless of where the offence was committed.

Or. en

Amendment 130

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) Directive 2002/90/EC³ and Council Framework Decision 2002/946/JHA⁴ (the ‘Facilitators’ Package’) constitute the Union legal framework to counter the facilitation of unauthorised entry, transit and stay of third-country nationals. It establishes a common definition of the offences of facilitation of unauthorised entry, transit and residence, and sets up the penal framework for the sanctioning of such offences. To **address evolving trends**, and to further enhance the effectiveness of the Union framework to prevent and counter these offences, it is necessary to update the existing legal framework.

³ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17., ELI: <http://data.europa.eu/eli/dir/2002/90/oj>).

⁴ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 1., ELI: http://data.europa.eu/eli/dec_framw/2002/946/oj).

Amendment

(2) Directive 2002/90/EC³ and Council Framework Decision 2002/946/JHA⁴ (the ‘Facilitators’ Package’) constitute the Union legal framework to counter the facilitation of unauthorised entry, transit and stay of third-country nationals. It establishes a common definition of the offences of facilitation of unauthorised entry, transit and residence, and sets up the penal framework for the sanctioning of such offences. To **clarify the scope of such offences** and to further enhance the effectiveness of the Union framework to prevent and counter these offences **committed by organised criminal groups that use violence or exploitation against migrants**, it is necessary to update the existing legal framework.

³ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17., ELI: <http://data.europa.eu/eli/dir/2002/90/oj>).

⁴ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 1., ELI: http://data.europa.eu/eli/dec_framw/2002/946/oj).

Or. en

Amendment 131

Mariusz Kamiński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Directive 2002/90/EC³ and Council Framework Decision 2002/946/JHA⁴ (the

Amendment

(2) Directive 2002/90/EC³ and Council Framework Decision 2002/946/JHA⁴ (the

‘Facilitators’ Package’) constitute the Union legal framework to counter the facilitation of unauthorised entry, transit and stay of third-country nationals. It establishes a common definition of the offences of facilitation of unauthorised entry, transit and residence, and sets up the penal framework for the sanctioning of such offences. To address evolving trends, and to further enhance the effectiveness of the Union framework to prevent and counter these offences, it is necessary to update the existing legal framework.

³ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L328, 5.12.2002, p. 17., ELI: <http://data.europa.eu/eli/dir/2002/90/oj>).

⁴ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L328, 5.12.2002, p. 1., ELI: http://data.europa.eu/eli/dec_framw/2002/946/oj).

‘Facilitators’ Package’) constitute the Union legal framework to counter the facilitation of unauthorised entry, transit and stay of third-country nationals, ***setting minimum standards in this regard***. It establishes a common definition of the offences of facilitation of unauthorised entry, transit and residence, and sets up the penal framework for the sanctioning of such offences. To address evolving trends, and to further enhance the effectiveness of the Union framework to prevent and counter these offences, it is necessary to update the existing legal framework.

³ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L328, 5.12.2002, p. 17., ELI: <http://data.europa.eu/eli/dir/2002/90/oj>).

⁴ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L328, 5.12.2002, p. 1., ELI: http://data.europa.eu/eli/dec_framw/2002/946/oj).

Or. pl

Amendment 132

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Directive 2002/90/EC³ and Council Framework Decision 2002/946/JHA⁴ (the ‘Facilitators’ Package’) constitute the Union legal framework to counter the facilitation of unauthorised entry, transit and stay of third-country nationals. It establishes a common definition of the

Amendment

(2) Directive 2002/90/EC³ and Council Framework Decision 2002/946/JHA⁴ (the ‘Facilitators’ Package’) constitute the Union legal framework to counter the facilitation of unauthorised entry, transit and stay of third-country nationals, ***as well as the instrumentalisation of migration***. It

offences of facilitation of unauthorised entry, transit and residence, and sets up the penal framework for the sanctioning of such offences. To address evolving trends, and to further enhance the effectiveness of the Union framework to prevent and counter these offences, it is necessary to update the existing legal framework.

³ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L328, 5.12.2002, p. 17., ELI: <http://data.europa.eu/eli/dir/2002/90/oj>).

⁴ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L328, 5.12.2002, p. 1., ELI: http://data.europa.eu/eli/dec_framw/2002/946/oj).

establishes a common definition of the offences of facilitation of unauthorised entry, transit and residence, and sets up the penal framework for the sanctioning of such offences. To address evolving trends, and to further enhance the effectiveness of the Union framework to prevent and counter these offences, it is necessary to update the existing legal framework.

³ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L328, 5.12.2002, p. 17., ELI: <http://data.europa.eu/eli/dir/2002/90/oj>).

⁴ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L328, 5.12.2002, p. 1., ELI: http://data.europa.eu/eli/dec_framw/2002/946/oj).

Or. pl

Amendment 133

Nikola Bartušek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Directive 2002/90/EC³ and Council Framework Decision 2002/946/JHA⁴ (the ‘Facilitators’ Package’) constitute the Union legal framework to counter the facilitation of unauthorised entry, transit and stay of third-country nationals. It establishes a common definition of the offences of facilitation of unauthorised entry, transit and residence, and sets up the penal framework for the sanctioning of such offences. To address evolving trends, and to further enhance the effectiveness of

Amendment

(2) Directive 2002/90/EC³ and Council Framework Decision 2002/946/JHA⁴ (the ‘Facilitators’ Package’) constitute the Union legal framework to counter the facilitation of unauthorised entry, transit and stay of third-country nationals. It establishes a common definition of the offences of facilitation of unauthorised entry, transit and residence, and sets up the penal framework for the sanctioning of such offences. To address evolving **and dangerous** trends, and to further enhance

the Union framework to prevent and counter these offences, it is necessary to update the existing legal framework.

³ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17., ELI: <http://data.europa.eu/eli/dir/2002/90/oj>).

⁴ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 1., ELI: http://data.europa.eu/eli/dec_framw/2002/946/oj).

the effectiveness of the Union framework to prevent and counter these offences, it is necessary to update the existing legal framework.

³ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17., ELI: <http://data.europa.eu/eli/dir/2002/90/oj>).

⁴ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 1., ELI: http://data.europa.eu/eli/dec_framw/2002/946/oj).

Or. en

Amendment 134 **Erik Marquardt**

Proposal for a directive **Recital 2**

Text proposed by the Commission

(2) Directive 2002/90/EC³ and Council Framework Decision 2002/946/JHA⁴ (the ‘Facilitators’ Package’) constitute the Union legal framework to counter the facilitation of unauthorised entry, transit and stay of third-country nationals. It establishes a common definition of the offences of facilitation of unauthorised entry, transit and residence, and sets up the penal framework for the sanctioning of such offences. To **address evolving trends**, and to further enhance the effectiveness of the Union framework to prevent and counter these offences, it is necessary to update the existing legal framework.

³ Council Directive 2002/90/EC of 28

Amendment

(2) Directive 2002/90/EC³ and Council Framework Decision 2002/946/JHA⁴ (the ‘Facilitators’ Package’) constitute the Union legal framework to counter the facilitation of unauthorised entry, transit and stay of third-country nationals. It establishes a common definition of the offences of facilitation of unauthorised entry, transit and residence, and sets up the penal framework for the sanctioning of such offences. To **clarify their scope** and to further enhance the effectiveness of the Union framework to prevent and counter these offences, it is necessary to update the existing legal framework.

³ Council Directive 2002/90/EC of 28

November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17., ELI: <http://data.europa.eu/eli/dir/2002/90/oj>).

⁴ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 1., ELI: http://data.europa.eu/eli/dec_framw/2002/946/oj).

November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17., ELI: <http://data.europa.eu/eli/dir/2002/90/oj>).

⁴ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 1., ELI: http://data.europa.eu/eli/dec_framw/2002/946/oj).

Or. en

Amendment 135

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, Elissavet Vozemberg-Vrionidi, François-Xavier Bellamy

Proposal for a directive Recital 2 a (new)

Text proposed by the Commission

Amendment

(2 a) The facilitation of irregular entry undermines Member States' sovereignty, national legislation, and judicial systems. A failure to effectively prosecute and punish smugglers weakens the rule of law and fosters parallel criminal economies at the EU's external borders.

Or. en

Amendment 136

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive Recital 3

Text proposed by the Commission

Amendment

(3) The European Council Conclusions of 9 February 2023 affirmed the need to reinforce Union action to

deleted

prevent irregular migration and loss of life, notably by intensifying cooperation with countries of origin and transit, and by ensuring stronger cooperation between Member States and with Europol, Frontex and Eurojust. The renewed Action Plan against migrant smuggling (2021-2025) sets out the policy response to migrant smuggling, as an essential part of the comprehensive approach to migration set out in the New Pact on Migration and Asylum. It sets out actions in four priority areas: reinforcing cooperation with partner countries and international organisations; sanctioning migrant smugglers and preventing the exploitation of migrants; reinforcing cooperation and supporting the work of law enforcement and judicial authorities; and increasing the knowledge base.

Or. en

Amendment 137

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive Recital 3

Text proposed by the Commission

(3) The European Council Conclusions of 9 February 2023 affirmed the need to reinforce Union action to prevent *irregular* migration and loss of life, notably by intensifying cooperation with countries of origin and transit, and by ensuring stronger cooperation between Member States and with Europol, Frontex and Eurojust. The renewed Action Plan against migrant smuggling (2021-2025) sets out the policy response to migrant smuggling, as an essential part of the comprehensive approach to migration set out in the New Pact on Migration and Asylum. It sets out actions in four priority areas: reinforcing cooperation with partner countries and

Amendment

(3) ***Although the migration crisis in Europe has been unfolding since at least 2015, and the EU and some Member States have made many mistakes by imposing harmful migration policies, it was only*** the European Council Conclusions of 9 February 2023 ***that*** affirmed the need to reinforce Union action to prevent *illegal* migration and loss of life, notably by intensifying cooperation with countries of origin and transit, and by ensuring stronger cooperation between Member States and with Europol, Frontex and Eurojust, ***which should play a supporting role for national border and migration services.*** The renewed Action

international organisations; sanctioning migrant smugglers and preventing the exploitation of migrants; reinforcing cooperation and supporting the work of law enforcement and judicial authorities; and increasing the knowledge base.

Plan against migrant smuggling (2021-2025) sets out the policy response to migrant smuggling, as an essential part of the comprehensive approach to migration set out in the New Pact on Migration and Asylum. It sets out actions in four priority areas: reinforcing cooperation with partner countries and international organisations; sanctioning migrant smugglers and preventing the exploitation of migrants; reinforcing cooperation and supporting the work of law enforcement and judicial authorities; and increasing the knowledge base, *while insufficiently addressing the issue of migration being weaponised for political and ideological reasons. It is understood that the construction of physical barriers to secure the external borders of the European Union is a key element in preventing the unauthorised entry and trafficking of persons into the European Union, and therefore requires financial support from the EU budget.*

Or. pl

Amendment 138
Milan Uhrík

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The European Council Conclusions of 9 February 2023 affirmed the need to reinforce Union action to prevent irregular migration and loss of life, notably by intensifying cooperation with countries of origin and transit, and by ensuring stronger cooperation between Member States and with Europol, Frontex and Eurojust. ***The renewed Action Plan against migrant smuggling (2021-2025) sets out the policy response to migrant smuggling, as an essential part of the comprehensive approach to migration set out in the New Pact on Migration and Asylum. It sets out***

Amendment

(3) The European Council Conclusions of 9 February 2023 affirmed the need to reinforce Union action to prevent irregular migration and loss of life, notably by intensifying cooperation with countries of origin and transit, and by ensuring stronger cooperation between Member States and with Europol, Frontex and Eurojust, ***to ensure the effective prevention of the illegal entry of third-country nationals.***

actions in four priority areas: reinforcing cooperation with partner countries and international organisations; sanctioning migrant smugglers and preventing the exploitation of migrants; reinforcing cooperation and supporting the work of law enforcement and judicial authorities;

Or. sk

Amendment 139
Erik Marquardt

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The European Council Conclusions of 9 February 2023 affirmed the need to reinforce Union action to prevent irregular migration and loss of life, *notably by intensifying cooperation with countries of origin and transit, and by ensuring stronger cooperation between Member States and with Europol, Frontex and Eurojust*. The renewed Action Plan against migrant smuggling (2021-2025) sets out the policy response to migrant smuggling, *as an essential part of the comprehensive approach to migration set out in the New Pact on Migration and Asylum*. It sets out actions in four priority areas: reinforcing cooperation with partner countries and international organisations; sanctioning migrant smugglers and preventing the exploitation of migrants; reinforcing cooperation and supporting the work of law enforcement and judicial authorities; and increasing the knowledge base.

Amendment

(3) The European Council Conclusions of 9 February 2023 affirmed the need to reinforce Union action to prevent irregular migration and loss of life. The renewed Action Plan against migrant smuggling (2021-2025) sets out the policy response to migrant smuggling. It sets out actions in four priority areas: reinforcing cooperation with partner countries and international organisations; sanctioning migrant smugglers and preventing the exploitation of migrants; reinforcing cooperation and supporting the work of law enforcement and judicial authorities; and increasing the knowledge base.

Or. en

Amendment 140
Tomáš Zdechovský

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The European Council Conclusions of 9 February 2023 affirmed the need to reinforce Union action to prevent irregular migration and loss of life, notably by intensifying cooperation with countries of origin and transit, and by ensuring stronger cooperation between Member States and with Europol, **Frontex** and Eurojust. The renewed Action Plan against migrant smuggling (2021-2025) sets out the policy response to migrant smuggling, as an essential part of the comprehensive approach to migration set out in the New Pact on Migration and Asylum. It sets out actions in four priority areas: reinforcing cooperation with partner countries and international organisations; sanctioning migrant smugglers and preventing the exploitation of migrants; reinforcing cooperation and supporting the work of law enforcement and judicial authorities; and increasing the knowledge base.

Amendment

(3) The European Council Conclusions of 9 February 2023 affirmed the need to reinforce Union action to prevent irregular migration and loss of life, notably by intensifying cooperation with countries of origin and transit, **by strengthening the operational capacity of Frontex**, and by ensuring stronger cooperation between Member States and with Europol and Eurojust. The renewed Action Plan against migrant smuggling (2021-2025) sets out the policy response to migrant smuggling, as an essential part of the comprehensive approach to migration set out in the New Pact on Migration and Asylum. It sets out actions in four priority areas: reinforcing cooperation with partner countries and international organisations; sanctioning migrant smugglers and preventing the exploitation of migrants; reinforcing cooperation and supporting the work of law enforcement and judicial authorities; and increasing the knowledge base.

Or. en

Amendment 141

Fabienne Keller, Raquel García Hermida-Van Der Walle, Hilde Vautmans, Irena Joveva, Jan-Christoph Oetjen
on behalf of the Committee on Civil Liberties, Justice and Home Affairs
Sophie Wilmès

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The European Council Conclusions of 9 February 2023 affirmed the need to reinforce Union action to prevent irregular migration and loss of life, notably by intensifying cooperation with countries of origin and transit, and by ensuring stronger

Amendment

(3) The European Council Conclusions of 9 February 2023 affirmed the need to reinforce Union action to prevent irregular migration and loss of life, notably by intensifying cooperation with countries of origin and transit, and by ensuring stronger

cooperation between Member States and with Europol, Frontex and Eurojust. The renewed Action Plan against migrant smuggling (2021-2025) sets out the policy response to migrant smuggling, as an essential part of the comprehensive approach to migration set out in the New Pact on Migration and Asylum. It sets out actions in four priority areas: reinforcing cooperation with partner countries and international organisations; sanctioning migrant smugglers and preventing the exploitation of migrants; reinforcing cooperation and supporting the work of law enforcement and judicial authorities; and increasing the knowledge base.

cooperation between Member States and with Europol, Frontex and Eurojust. The renewed Action Plan against migrant smuggling (2021-2025) sets out the policy response to migrant smuggling, as an essential part of the comprehensive approach to migration set out in the New Pact on Migration and Asylum. It sets out actions in four priority areas: reinforcing cooperation with partner countries and international organisations; sanctioning migrant smugglers and preventing the exploitation of migrants; reinforcing cooperation and supporting the work of law enforcement and judicial authorities *or agencies*; and increasing the knowledge base.

Or. en

Amendment 142

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, Elissavet Vozemberg-Vrionidi, François-Xavier Bellamy

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3 a) The European Council Conclusions of 20 March 2025 encouraged further work on the prevention and countering of irregular migration and on the fight against instrumentalisation, human trafficking and smuggling. It also called the EU's determination to strengthen security at its external borders and ensure their effective control, in line with EU and international law.

Or. en

Amendment 143

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský,

Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, Elissavet Vozemberg-Vrionidi, François-Xavier Bellamy

Proposal for a directive
Recital 3 b (new)

Text proposed by the Commission

Amendment

(3 b) *An effective fight against migrant smuggling contributes directly to reinforcing the integrity of the Union's external borders and the credibility of its migration policy. Securing the EU's borders must go hand in hand with dismantling the logistical and human infrastructure enabling illegal crossings*

Or. en

Amendment 144

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive
Recital 4

Text proposed by the Commission

Amendment

(4) The facilitation of unauthorised entry, transit and stay is a transnational phenomenon, and measures adopted at Union and national levels should recognise its international dimension. Union and national actions should therefore take into account the ***international commitments of the Union and its Member States, including in relation to the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on maritime Search and Rescue, the United Nations Convention on the Rights of the Child, as well as the work of the United Nations Office against***

(4) The facilitation of unauthorised entry, transit and stay is a transnational phenomenon, and measures adopted at Union and national levels should recognise its international dimension. Union and national actions should therefore take into account the ***importance of fighting this transnational phenomenon, that generates enormous profits to transnational organised crime networks.***

Amendment 145

**Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba,
Jadwiga Wiśniewska**

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) The facilitation of unauthorised entry, transit and stay is a transnational phenomenon, and measures adopted at Union and national levels should recognise its international dimension. Union and national actions should therefore take into account the international commitments of the Union and its Member States, including in relation to the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on maritime Search and Rescue, the United Nations Convention on the Rights of the Child, as well as the work of the United Nations Office against Drugs and Crime.

Amendment

(4) The facilitation of unauthorised entry, transit and stay is a transnational phenomenon, and measures adopted at Union and national levels should recognise its international dimension. Union and national actions should therefore take into account the international commitments of the Union and its Member States, including in relation to the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on maritime Search and Rescue, the United Nations Convention on the Rights of the Child, as well as the work of the United Nations Office against Drugs and Crime, ***and the 1951 Geneva Convention Relating to the Status of Refugees, which mandates that assistance be provided to those in need closest to their country of origin, in accordance with the letter of the law (avoiding broad interpretations) and in strict compliance with the Schengen Borders Code.***

Amendment 146

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) The facilitation of unauthorised entry, transit **and stay** is a transnational phenomenon, and measures adopted at Union and national levels should recognise its international dimension. Union and national actions should therefore **take into account** the international commitments of the Union and its Member States, including in relation to the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on maritime Search and Rescue, the United Nations Convention on the Rights of the Child, as well as the work of the United Nations Office against Drugs and Crime.

Amendment

(4) The facilitation of unauthorised entry **and transit by organised criminal groups that use violence or exploitation against migrants** is a transnational phenomenon, and measures adopted at Union and national levels should recognise its international dimension. Union and national actions should therefore **be applied in accordance and in full compliance with** the international commitments of the Union and its Member States, including, **but not limited to**, in relation to the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on maritime Search and Rescue, the United Nations Convention on the Rights of the Child, **the UN Declaration on Human Rights Defenders**, as well as the work of the United Nations Office against Drugs and Crime.

Or. en

Amendment 147
Erik Marquardt

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) **The facilitation of unauthorised entry, transit and stay** is a transnational phenomenon, and measures adopted at Union and national levels should recognise its international dimension. Union and

Amendment

(4) **Migrant smuggling** is a transnational phenomenon, and measures adopted at Union and national levels should recognise its international dimension. Union and national actions

national actions should therefore **take into account** the international commitments of the Union and its Member States, including in relation to the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on maritime Search and Rescue, the United Nations Convention on the Rights of the Child, as well as the work of the United Nations Office against Drugs and Crime.

should therefore **comply with** the international commitments of the Union and its Member States, including in relation to the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on maritime Search and Rescue, the United Nations Convention on the Rights of the Child, as well as the work of the United Nations Office against Drugs and Crime.

Or. en

Amendment 148

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4 a) It is necessary to introduce measures against situations where a non-state actor instigates irregular migration into the Union by encouraging or facilitating the movement of third-country nationals or stateless persons to the external borders of the Union, where such actions are indicative of an intention of a third country or a non-state actor to destabilise the Union or a Member State, where the nature of such actions is liable to put at risk essential State functions and the maintenance of law and order and the national security.

Or. en

Amendment 149

Fabienne Keller, Raquel García Hermida-Van Der Walle, Hilde Vautmans, Irena

Joveva, Jan-Christoph Oetjen

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

Sophie Wilmès

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) Taking account of the evolution of the activities aimed to facilitate unauthorised entry, transit and stay in the Union, as well as the legal obligations of the Union and the Member States under international law, the definition of the criminal offences should be further approximated in all Member States so that it covers the relevant conducts more comprehensively.

Amendment

(5) Taking account of the evolution of the activities aimed to facilitate unauthorised entry, transit and stay in the Union, as well as the legal obligations of the Union and the Member States under international law, the definition of the criminal offences should be further approximated in all Member States so that it covers the relevant conducts more comprehensively. ***This approximation should also aim to ensure legal certainty and precision, in line with the principles of criminal law, by clearly defining the punishable behaviours and avoiding overly broad or vague formulations that could undermine fundamental rights.***

Or. en

Amendment 150

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) Taking account of the evolution of the activities aimed to facilitate unauthorised entry, transit ***and stay*** in the Union, as well as the legal obligations of the Union and the Member States under international law, the definition of the criminal offences should be ***further approximated*** in all Member States so that it ***covers the relevant conducts more comprehensively***.

Amendment

(5) Taking account of the evolution of the activities aimed to facilitate unauthorised entry ***and*** transit in the Union ***by organised criminal groups that use violence or exploitation against migrants***, as well as the legal obligations of the Union and the Member States under international law, ***as well as the increased criminalisation of humanitarian assistance and third-country nationals themselves***, the definition of the criminal offences should be ***clarified*** in all Member

States so that it *defines more clearly conduct that is criminal and conduct that is not criminal.*

Or. en

Amendment 151
Erik Marquardt

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) Taking account of the evolution of *the activities aimed to facilitate unauthorised entry, transit and stay in the Union*, as well as the legal obligations of the Union and the Member States under international law, the definition of the criminal offences should be further *approximated* in all Member States *so that it covers the relevant conducts more comprehensively.*

Amendment

(5) Taking account of the evolution of *migrant smuggling* activities, as well as the legal obligations of the Union and the Member States under international law, the definition of the criminal offences should be further *clarified* in all Member States *to ensure legal certainty.*

Or. en

Amendment 152
Erik Marquardt

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. *Assistance of unauthorised entry, transit or stay in the Union* should constitute a criminal offence

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. *Intentionally procuring unauthorised entry to a Member State* should constitute a criminal offence

when there is *a link with* an actual *or a promised* financial or material benefit. *This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.*

when *carried out by an organised criminal group and where* there is an actual financial or *other* material benefit.

Or. en

Amendment 153

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences *that counter these criminal behaviours*. Assistance of unauthorised entry, transit *or stay* in the Union should constitute a criminal offence when there is a link with an *actual or a promised financial or material benefit*. *This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country*

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, *and to avoid criminalisation of smuggled third country nationals and acts of solidarity*, it is necessary to provide a precise and detailed definition of the criminal offences. Assistance of unauthorised entry *or* transit in the Union should constitute a criminal offence when there is *undue financial benefit and* a link with an *organised criminal group that use violence or*

nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

exploitation against migrants.

Or. en

Amendment 154

Fredis Beleris, Elissavet Vozemberg-Vrionidi

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. *This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence*

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. *This is without prejudice to the way in which Member States deal in their national law with facilitation conducts for which an actual or a promised financial or material benefit is not a constituent element of the offence.*

in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

Or. en

Amendment 155
Cecilia Strada

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. ***This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without***

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. Providing objective information or ***legal*** advice, ***including legal information***, to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

Or. en

Amendment 156 **Sebastian Tynkkynen**

Proposal for a directive **Recital 6**

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence ***when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit.*** It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence ***in all situations.*** It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

understood as public instigation.

Or. fi

Amendment 157

Nicolas Bay, Laurence Trochu, Marion Maréchal, Guillaume Peltier

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence ***when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit.*** It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, ***and materially assist*** third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

Or. fr

Amendment 158
Malik Azmani, Fabienne Keller

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

However, it should still be possible for Member States to address, within their own national legislation, how they implement the component of financial and material importance. It is not always feasible to demonstrate this, which is why the option of excluding it from criminalization is crucial.

Or. en

Amendment 159

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to **discourage** the modus operandi of persons who publicly **instigate**, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to **deter** the modus operandi of persons who **promote illegal migration by publicly instigating**, for instance through **social media platforms and** the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation **and therefore should not be criminalised**.

Or. en

Amendment 160
François-Xavier Bellamy

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who, publicly ***or not***, instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation. ***Providing material or logistical support or establishing contact with smuggling networks, in whatever form, to organise or facilitate irregular migration should constitute an act of complicity.***

Or. fr

Amendment 161

**Proposal for a directive
Recital 6**

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. ***Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.***

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation.

Or. en

Amendment 162

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

**Proposal for a directive
Recital 6**

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people *for the purpose of obtaining profits*, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours.

Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial *or material* benefit. This conduct should also be criminalised *provided that this is highly* likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to *discourage* the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. *Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.*

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that *threaten security for the purpose of obtaining profits and, in some cases, also for political and ideological purposes*, put human life in danger and disrespect the dignity of people, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours.

Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial, *material or non-material* benefit. This conduct should also be criminalised *in all other cases, including where it is* likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to *encourage* the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. *Third-country nationals shall also be held criminally liable for illegal entry, transit or stay on the territory of the EU when acting knowingly and with direct intent.*

Or. pl

Amendment 163
Nadine Morano

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In accordance with the principles of

Amendment

(6) In accordance with the principles of

legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence **when** there is a link with an actual or a promised financial or material benefit. ***This conduct should also be criminalised provided that this is highly likely to cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit.*** It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who **publicly** instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. ***Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.***

legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence ***in all cases, for both natural and legal persons, whether or not*** there is a link with an actual or a promised financial or material benefit. ***Organisations, including non-governmental organisations, which deliberately facilitate the movement of migrants to the territory of the Union by disembarking them in European ports after rescuing them at sea, should also be regarded as complicit in smuggling, where such acts knowingly contribute to the rationale of smuggling organisations and networks.*** It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation.

Or. fr

Justification

L'aide à l'entrée, au transit ou au séjour non autorisés dans l'Union européenne est une infraction grave, car elle compromet la gestion des frontières et l'ordre juridique des États membres. Toutefois, en pratique, la répression de cette aide peut se heurter à un obstacle important : la nécessité de prouver l'existence d'un avantage financier ou matériel en contrepartie de cette aide. Or, ces avantages sont très souvent versés en espèces, sans trace écrite ou électronique, ce qui rend leur existence difficile à démontrer devant un tribunal. C'est pourquoi il est nécessaire de pénaliser l'aide "dans tous les cas", qu'elle soit motivée ou non par un avantage financier, afin de garantir l'efficacité des poursuites et de ne pas laisser de vide juridique exploitable.

Amendment 164
Georgiana Teodorescu

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised ***provided that this is highly likely to*** cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

Amendment

(6) In accordance with the principles of legality and proportionality of criminal law, and in order to address criminal activities that put human life in danger and disrespect the dignity of people for the purpose of obtaining profits, it is necessary to provide a precise and detailed definition of the criminal offences that counter these criminal behaviours. Assistance of unauthorised entry, transit or stay in the Union should constitute a criminal offence, ***including*** when there is a link with an actual or a promised financial or material benefit. This conduct should also be criminalised ***because it can*** cause serious harm to the third-country nationals who were subject to the criminal offence or to any other person, even though there is no financial or material benefit or no promise of such benefit. It is necessary to establish a criminal offence in order to discourage the modus operandi of persons who publicly instigate, for instance through the internet, third-country nationals to enter, transit or stay in the Union without authorisation. Providing objective information or advice to third-country nationals on the conditions for the legal entry and stay in the Union, and on international protection, should not be understood as public instigation.

Or. ro

Amendment 165

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive
Recital 6 a (new)

(6 a) This Directive is an instrument of minimum harmonisation. As a consequence, Member States are free to adopt or maintain legislation providing for a broader incrimination than what is set out in this Directive, in the interests of enhancing the effectiveness of the fight against migrant smugglers. Member States should ensure that intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence at least where the person who carries out the conduct requests, receives or accepts, directly or indirectly, a financial or material benefit, or a promise thereof, or carries out the conduct in order to obtain such a benefit. However, since this Directive is an instrument of minimum harmonisation, Member States are free to criminalise such conduct when no financial or another material benefit has been provided.

Or. en

**Amendment 166
Nadine Morano**

**Proposal for a directive
Recital 7**

Text proposed by the Commission

Amendment

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or

deleted

the support of basic human needs. Third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations.

Or. fr

Amendment 167
Mary Khan

Proposal for a directive
Recital 7

Text proposed by the Commission

Amendment

(7) *It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations.*

deleted

Or. en

Justification

Migrant smuggling occurs in many different ways, including under the guise of 'humanitarian assistance' by NGOs. This Directive should not be a free pass for NGOs to be exempt from

culpability.

Amendment 168
Sebastian Tynkkynen

Proposal for a directive
Recital 7

Text proposed by the Commission

Amendment

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations.

deleted

Or. fi

Amendment 169
Milan Uhrík

Proposal for a directive
Recital 7

Text proposed by the Commission

Amendment

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where *it is* highly likely *that such conduct could endanger the security of EU Member States.*

assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been the subject to such criminal offences.

Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations.

Or. sk

Amendment 170

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) It is appropriate to provide for criminal liability where there is a link to a financial *or material* benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with *legal obligations*.

Amendment

(7) It is appropriate to provide for criminal liability where there is a link to a financial, *material or non-material* benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among *immediate* family members or the provision of humanitarian assistance or the support of basic human needs, *or to persons who are being trafficked against their will, unless these elements are a cover for the actual activity of bringing persons into the territory of the Union who do not have the right to enter*. Third-country nationals should not become criminally liable for having been the subject to such criminal offences, *notwithstanding the fact that the illegal crossing of a border constitutes an offence*. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand,

humanitarian assistance or the support of basic human needs provided to third-country nationals, ***provided that this is in compliance with applicable national law and does not constitute a cover for illegal activities.***

Or. pl

Amendment 171

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) It is appropriate to provide for criminal liability where there is ***a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm.*** These elements ***will usually*** not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance ***or the support of basic human needs.*** Third-country nationals should not become criminally liable for having been the ***subject to*** such criminal ***offences.*** Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance ***or the support of basic human needs provided to third-country nationals in compliance with legal obligations.***

Amendment

(7) It is appropriate to provide for criminal liability where there is ***an undue*** financial benefit. These elements ***should*** not be fulfilled when it comes to ***individual assistance or*** assistance among family members or the provision of humanitarian assistance, ***which includes but is not limited to provision of shelter, food, legal aid and advice, medical care, information and transportation, monitoring, documenting and reporting human rights abuses, peaceful disobedience or advocacy for policy change.*** Third-country nationals should not become criminally liable for having been the ***object of*** such criminal ***offence. In fact, this Directive should also aim at protecting smuggled third country nationals from criminalisation.*** Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance.

Or. en

Amendment 172

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. ***These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been the subject to such criminal offences.*** Moreover, it is ***not the purpose*** of this Directive to ***criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations.***

Amendment

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. It is ***the aim*** of this Directive to ***prevent any facilitation of illegal entry, transit or stay in the Union, because it not only puts human life in danger, but also threatens the safety of the Union citizens.***

Or. en

Amendment 173
Cecilia Strada

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will ***usually*** not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance ***or the support of basic human needs.*** Third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this

Amendment

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance. Third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family

Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance *or the support of basic human needs* provided to third-country nationals in compliance with *legal* obligations.

members and, on the other hand, humanitarian assistance provided to third-country nationals in compliance with *the relevant provisions and obligations of international law. It is not the purpose of this Directive to criminalise provision of legal advice to individuals without legal residence for the sake of informing them about their rights.*

Or. en

Amendment 174

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, François-Xavier Bellamy

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations.

Amendment

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations. *Civil society organisations acting in accordance with applicable laws and within the framework of their mandates, in particular when delivering humanitarian assistance, should not be subject to criminal liability under this*

Amendment 175
François-Xavier Bellamy

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations.

Amendment

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations. ***This Directive is also not intended to prevent Member States from doing so, provided that their national legislation permits it and that the fundamental rights of the person concerned are respected.***

Amendment 176
Erik Marquardt

Proposal for a directive
Recital 7

(7) It is appropriate to provide for criminal liability where there is ***a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm.*** These elements ***will usually not be fulfilled*** when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been ***the*** subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, ***on the one hand,*** assistance provided to family members ***and, on the other hand,*** humanitarian assistance ***or*** the support of basic human needs provided to third-country nationals ***in compliance with legal obligations.***

(7) It is appropriate to provide for criminal liability where there is ***an undue financial or other material benefit and where there is involvement of an organised criminal group.*** These elements ***are not fulfilled*** when it comes to assistance ***provided for humanitarian and selfless reasons, assistance*** among family members ***and close relatives,*** or the provision of humanitarian ***assistance, legal*** assistance or the support of basic human needs. Third-country nationals should not become criminally liable for having been subject to such criminal offences, ***or for the sole fact of entering or staying in the territory of a Member State.*** Moreover, it is not the purpose of this Directive to criminalise assistance provided to family members ***or close relatives,*** humanitarian assistance, the support of basic human needs provided to third-country nationals ***or the fulfilment of other obligations deriving from international law.***

Or. en

Amendment 177

Fredis Beleris, Elissavet Vozemberg-Vrionidi

Proposal for a directive

Recital 7

(7) ***It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs.*** Third-country nationals should not become criminally liable for having been the subject to such criminal offences.

(7) ***Without prejudice to rules of national law relating to unauthorised entry in the territory of the Member State concerned,*** third-country nationals should not become criminally liable for having been the subject to such criminal offences. Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals

Moreover, it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal *obligations*.

in compliance with *the applicable national and international* legal *framework*.

Or. en

Amendment 178 **Georgiana Teodorescu**

Proposal for a directive **Recital 7**

Text proposed by the Commission

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. *Third-country nationals should not become criminally liable for having been the subject to such criminal offences.*

Moreover, *it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations.*

Amendment

(7) It is appropriate to provide for criminal liability where there is a link to a financial or material benefit, or where migrants are highly likely to be subjected to serious harm. These elements will usually not be fulfilled when it comes to assistance among family members or the provision of humanitarian assistance or the support of basic human needs. Moreover, *there is a need to ensure, through information campaigns run in the countries of origin of illegal migrants and through any other means of mass communication, that third-country nationals are aware that attempting to enter the EU illegally constitutes a criminal offence.*

Or. ro

Amendment 179 **Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen**

Proposal for a directive **Recital 7 a (new)**

(7 a) Where an individual or organisation offers assistance to migrants through actions which are selfless and from which no financial or other material benefit is derived, or which are based on the principles of humanity, neutrality, impartiality, access to asylum and to justice and independence, then those actions should not be criminalised. Such actions may include the carrying out of search and rescue operations in accordance with international law, assistance to family members, assistance to third-country nationals in situations of danger or distress, the provision of legal assistance, medical assistance, healthcare, housing, shelter, clothing, food and water to third-country nationals or supporting third-country nationals in asserting their rights.

Or. en

Justification

Recital 7a explains what the humanitarian clause covers and that it includes provision of legal assistance explicitly. However, it is suggested to add a reference to the principles of access to asylum and to justice in order to make sure that that second part of the first sentence enumerates a principle attached to the legal assistance being provided to asylum seekers and migrants. Indeed, the first part of the first sentence (“Where an individual or organisation offers assistance to migrants through actions which are selfless and from which no financial or other material benefit is derived (...)”) does not give enough justification for legal assistance as lawyers might be remunerated for their legal assistance. Indeed, the provision of legal assistance is based on the principles of access to asylum and access to justice as well as independence. Adding these principles would also boost the basis for the activity of “supporting third-country nationals in asserting their rights”.

Amendment 180

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 7 a (new)

(7 a) Where an individual or organisation offers assistance to migrants through actions which are selfless and from which no financial benefit is derived, then those actions should not be criminalised. Such actions may include the carrying out of search and rescue operations, assistance to family members, assistance to third-country nationals in situations of danger or distress, the provision of legal assistance, information, transportation, medical assistance, healthcare, housing, shelter, clothing, food and water to third-country nationals, monitoring and reporting human rights abuses, peaceful disobedience, advocacy for policy change, or supporting third-country nationals in asserting their rights.

Or. en

Amendment 181
Erik Marquardt

Proposal for a directive
Recital 8

Text proposed by the Commission

Amendment

(8) The impact of facilitation of unauthorised entry, transit and stay extends beyond the Member State of unauthorised entry. Minimum rules concerning the definition of the criminal offences should encompass conducts taking place in the territory of any Member State, to allow Member States other than those of unauthorised entry to act on such offences, provided that the Member States concerned establish jurisdiction over these offences.

deleted

Or. en

Amendment 182
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) The impact of facilitation of unauthorised entry, transit **and stay** extends beyond the Member State of unauthorised entry. Minimum rules concerning the definition of the criminal offences should encompass conducts taking place in the territory of any Member State, to allow Member States other than those of unauthorised entry to act on such offences, provided that the Member States concerned establish jurisdiction over these offences.

Amendment

(8) The impact of facilitation of unauthorised entry **and** transit **by organised criminal groups that use violence or exploitation against migrants** extends beyond the Member State of unauthorised entry. Minimum rules concerning the definition of the criminal offences should encompass conducts taking place in the territory of any Member State, to allow Member States other than those of unauthorised entry to act on such offences, provided that the Member States concerned establish jurisdiction over these offences.

Or. en

Amendment 183
Sebastian Tynkkynen

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) The impact of facilitation of unauthorised entry, transit and stay extends beyond the Member State of unauthorised entry. Minimum rules concerning the definition of the criminal offences should encompass conducts taking place in the territory of any Member State, to allow Member States other than those of unauthorised entry to act on such offences, provided that the Member States concerned establish jurisdiction over these offences.

Amendment

(8) The **negative** impact of facilitation of unauthorised entry, transit and stay extends beyond the Member State of unauthorised entry. Minimum rules concerning the definition of the criminal offences should encompass conducts taking place in the territory of any Member State, to allow Member States other than those of unauthorised entry to act on such offences, provided that the Member States concerned establish jurisdiction over these offences.

Or. fi

Amendment 184

Nicolas Bay, Laurence Trochu, Marion Maréchal, Guillaume Peltier

Proposal for a directive

Recital 9

Text proposed by the Commission

Amendment

(9) There is a need to distinguish between the criminal offence of facilitation of unauthorised entry, transit and stay in the Union and the aggravated criminal offences that create higher harm to individuals and to society. The levels of penalties should reflect the higher social concern regarding more serious and harmful conducts, therefore aggravated offences should be sanctioned by more severe criminal penalties. *deleted*

Or. fr

Amendment 185

Erik Marquardt

Proposal for a directive

Recital 9

Text proposed by the Commission

Amendment

(9) There is a need to distinguish between the criminal offence of facilitation of unauthorised entry, transit and stay in the Union and the aggravated criminal offences that create higher harm to individuals and to society. The levels of penalties should reflect the higher social concern regarding more serious and harmful conducts, therefore aggravated offences should be sanctioned by more severe criminal penalties. *deleted*

Or. en

Amendment 186

Iłaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) There is a need to distinguish between the criminal offence of facilitation of unauthorised entry, transit **and stay** in the Union and the aggravated criminal offences that create higher harm to individuals and to society. The levels of penalties should reflect the higher social concern regarding more serious and harmful conducts, therefore aggravated offences should be sanctioned by more severe criminal penalties.

Amendment

(9) There is a need to distinguish between the criminal offence of facilitation of unauthorised entry **and transit by organised criminal groups that use violence or exploitation against migrants** in the Union and the aggravated criminal offences that create higher harm to individuals and to society. The levels of penalties should reflect the higher social concern regarding more serious and harmful conducts, therefore aggravated offences should be sanctioned by more severe criminal penalties.

Or. en

Amendment 187
Sebastian Tynkkynen

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) Member States should apply this Directive in accordance and in full compliance with the 1951 Convention Relating to the Status of Refugees as amended by the Protocol of New York of 1967, obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights.

Amendment

deleted

Or. fi

Amendment 188
Georgiana Teodorescu

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) Member States should apply this Directive in accordance and in full compliance with the 1951 Convention Relating to the Status of Refugees as amended by the Protocol of New York of 1967, obligations *related to access to international protection, in particular the principle of non-refoulement, and fundamental rights.*

Amendment

(10) Member States should apply this Directive in accordance and in full compliance with the 1951 Convention Relating to the Status of Refugees as amended by the Protocol of New York of 1967 **and obligations relating to respect for fundamental rights. Should a third-country national fail to comply with the law of the Member State in which they are living, they shall be returned to their country of origin or residence or, should their life be objectively threatened in their country of origin or residence, to a third state that is culturally and religiously similar to it.**

Or. ro

Amendment 189

Tomáš Zdechovský

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) Member States should apply this Directive in accordance and in full compliance with the 1951 Convention Relating to the Status of Refugees as amended by the Protocol of New York of 1967, obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights.

Amendment

(10) Member States should apply this Directive in accordance and in full compliance with the 1951 Convention Relating to the Status of Refugees as amended by the Protocol of New York of 1967, obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights. **Member States should ensure that access to asylum procedures is swift and efficient, corresponding with responsibility criteria for examining applications, and in line with the principles of the New Pact on Migration and Asylum.**

Or. en

Amendment 190

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) Member States should apply this Directive in accordance and in full compliance with the 1951 Convention Relating to the Status of Refugees as amended by the Protocol of New York of 1967, obligations related to access to international protection, ***in particular the principle of non-refoulement, and fundamental rights.***

Amendment

(10) Member States should apply this Directive in accordance and in full compliance with the 1951 Convention Relating to the Status of Refugees as amended by the Protocol of New York of 1967, obligations related to access to international protection.

Or. en

Amendment 191

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10 a) Member States should apply this Directive in accordance and in full compliance with international law and standards on the protection of human rights defenders, including the International Covenant on Civil and Political Rights and the European Convention on Human Rights, as well as the UN Declaration on Human Rights Defenders.

Or. en

Amendment 192

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons.

Accessory measures are often effective and, therefore, should be also available in criminal proceedings. Considering the possible risk to public policy and public security that they may pose, third-country nationals who committed the offences defined in this Directive should be subject to return in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁵ or in accordance with national law where Member States have made use of Article 2(2), point (b), of that Directive, either after having served the prison sentence in a Member State or in view of serving the prison sentence, or part of it, in a third country, without prejudice to more favourable provisions applicable by virtue of Union or national law; furthermore, without prejudice to more favourable provisions applicable by virtue of Union or national law, those third-country nationals should be prohibited to re-enter the territory of the Member States for an appropriate period of time to be determined on a case-by-case basis, and that can reach 10 years in the most serious cases. This should not affect the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98,

Amendment

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons.

ELI:
<http://data.europa.eu/eli/dir/2008/115/oj>).

Or. en

Amendment 193
Erik Marquardt

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory measures are often effective and, therefore, should be also available in criminal proceedings. ***Considering the possible risk to public policy and public security that they may pose, third-country nationals who committed the offences defined in this Directive should be subject to return in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁵ or in accordance with national law where Member States have made use of Article 2(2), point (b), of that Directive, either after having served the prison sentence in a Member State or in view of serving the prison sentence, or part of it, in a third country, without prejudice to more favourable provisions applicable by virtue of Union or national law; furthermore, without prejudice to more favourable provisions applicable by virtue of Union or national law, those third-country nationals should be prohibited to re-enter the territory of the Member States for an appropriate period of time to be determined on a case-by-case basis, and that can reach 10 years in the most serious cases. This should not affect the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual***

Amendment

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory measures are often effective and, therefore, should be also available in criminal proceedings.

cases.

⁵ *Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).*

Or. en

Amendment 194

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive Recital 11

Text proposed by the Commission

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory measures are often effective and, therefore, should be also available in criminal proceedings. Considering the possible risk to public policy and public security that they may pose, third-country nationals who committed the offences defined in this Directive should be subject to return in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁵ or in accordance with national law where Member States have made use of Article 2(2), point (b), of that Directive, either after having served the prison sentence in a Member State or in view of serving the prison sentence, or part of it, in a third country, without prejudice to more favourable provisions applicable by virtue of Union or national law; furthermore, without prejudice to more

Amendment

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory measures are often effective and, therefore, should be also available in criminal proceedings. Considering the possible risk to public policy and public security that they may pose, third-country nationals who committed the offences defined in this Directive should be subject to return in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁵ or in accordance with national law where Member States have made use of Article 2(2), point (b), of that Directive, either after having served the prison sentence in a Member State or in view of serving the prison sentence, or part of it, in a third country, without prejudice to more favourable provisions applicable by virtue of Union or national law; furthermore, without prejudice to more

favourable provisions applicable by virtue of Union or national law, those third-country nationals should be prohibited to re-enter the territory of the Member States **for an appropriate period of time to be determined on a case-by-case basis, and that can reach 10 years in the most serious cases**. This should not affect the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

favourable provisions applicable by virtue of Union or national law, those third-country nationals should be prohibited to re-enter the territory of the Member States. This should not affect the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

Or. en

Amendment 195 **Georgiana Teodorescu**

Proposal for a directive **Recital 11**

Text proposed by the Commission

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory measures are often effective and, therefore, should be also available in criminal proceedings. Considering the **possible risk** to public policy and public security that they **may pose**, third-country nationals who committed the offences defined in this Directive should be subject to return in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁵ or in accordance with national law where Member States have made use of Article 2(2), point (b), of that

Amendment

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory measures are often effective and, therefore, should be also available in criminal proceedings. Considering the **danger** to public policy and public security that they **represent**, third-country nationals who committed the offences defined in this Directive should be subject to return in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁵ or in accordance with national law where Member States have made use of Article 2(2), point (b), of that Directive,

Directive, either after having served the prison sentence in a Member State or in view of serving the prison sentence, or part of it, in a third country, without prejudice to more favourable provisions applicable by virtue of Union or national law; furthermore, without prejudice to more favourable provisions applicable by virtue of Union or national law, those third-country nationals should be prohibited to re-enter the territory of the Member States for *an appropriate period of time to be determined on a case-by-case basis, and that can reach 10 years in the most serious cases*. This should not affect the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures *in Member States* for returning illegally staying third-country nationals (OJ L348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

either after having served the prison sentence in a Member State or in view of serving the prison sentence, or part of it, in a third country, without prejudice to more favourable provisions applicable by virtue of Union or national law; furthermore, without prejudice to more favourable provisions applicable by virtue of Union or national law, those third-country nationals should be prohibited to re-enter the territory of the Member States for *a period of at least 5 years and a maximum of 20 years, depending on the seriousness of the case*. This should not affect the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures *in Member States* for returning illegally staying third-country nationals (OJ L348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

Or. ro

Amendment 196 **Nadine Morano**

Proposal for a directive **Recital 11**

Text proposed by the Commission

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory measures are often effective and, therefore, should be also available in criminal proceedings. Considering the possible risk to public policy and public security that they may pose, third-country

Amendment

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory measures are often effective and, therefore, should be also available in criminal proceedings. Considering the possible risk to public policy and public security that they may pose, third-country

nationals who committed the offences defined in this Directive should be subject to return in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁵ or in accordance with national law where Member States have made use of Article 2(2), point (b), of that Directive, either after having served the prison sentence in a Member State or in view of serving the prison sentence, or part of it, in a third country, without prejudice to more favourable provisions applicable by virtue of Union or national law; furthermore, without prejudice to more favourable provisions applicable by virtue of Union or national law, those third-country nationals should be prohibited to re-enter the territory of the Member States for an appropriate period of time to be determined on a case-by-case basis, and that can reach **10** years in the most serious cases. This should not affect the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

nationals who committed the offences defined in this Directive should be subject to return in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁵ or in accordance with national law where Member States have made use of Article 2(2), point (b), of that Directive, either after having served the prison sentence in a Member State or in view of serving the prison sentence, or part of it, in a third country, without prejudice to more favourable provisions applicable by virtue of Union or national law; furthermore, without prejudice to more favourable provisions applicable by virtue of Union or national law, those third-country nationals should be prohibited to re-enter the territory of the Member States for an appropriate period of time to be determined on a case-by-case basis, and that can reach **30** years in the most serious cases. This should not affect the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

Or. fr

Amendment 197

Sebastian Tynkkynen

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels

Amendment

(11) Penalties for the criminal offences should be effective, dissuasive and proportionate. To this end, minimum levels

for the maximum term of imprisonment should be set for natural persons. Accessory measures are often effective and, therefore, should be also available in criminal proceedings. Considering the possible risk to public policy and public security that they may pose, third-country nationals who committed the offences defined in this Directive should be subject to return in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁵ or in accordance with national law where Member States have made use of Article 2(2), point (b), of that Directive, either after having served the prison sentence in a Member State or in view of serving the prison sentence, or part of it, in a third country, without prejudice to more favourable provisions applicable by virtue of Union or national law; furthermore, without prejudice to more favourable provisions applicable by virtue of Union or national law, those third-country nationals should be prohibited to re-enter the territory of the Member States for an appropriate period of time to be determined on a case-by-case basis, and that can reach **10** years in the most serious cases. This should not affect the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

for the maximum term of imprisonment should be set for natural persons. Accessory measures are often effective and, therefore, should be also available in criminal proceedings. Considering the possible risk to public policy and public security that they may pose, third-country nationals who committed the offences defined in this Directive should be subject to return in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁵ or in accordance with national law where Member States have made use of Article 2(2), point (b), of that Directive, either after having served the prison sentence in a Member State or in view of serving the prison sentence, or part of it, in a third country, without prejudice to more favourable provisions applicable by virtue of Union or national law; furthermore, without prejudice to more favourable provisions applicable by virtue of Union or national law, those third-country nationals should be prohibited to re-enter the territory of the Member States for an appropriate period of time to be determined on a case-by-case basis, and that can reach **20** years in the most serious cases. This should not affect the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

Or. fi

Amendment 198

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 12

Text proposed by the Commission

Amendment

(12) *The assessment of the seriousness of the offence should also extend to attempts to commit the offence that do not result in unauthorised entry in the Union. Attempts that cause the death of one or more third-country nationals should be sanctioned with more severe penalties than other types of attempts. Setting minimum rules on the maximum level of penalties at Union level for such attempts is justified and proportionate in view of the transnational dimension of the offence, and the fact that an attempt to commit the offence resulting in the death of third-country nationals bears the same gravity as a committed offence resulting in death.* *deleted*

Or. en

Amendment 199

Erik Marquardt

Proposal for a directive

Recital 12

Text proposed by the Commission

Amendment

(12) *The assessment of the seriousness of the offence should also extend to attempts to commit the offence that do not result in unauthorised entry in the Union. Attempts that cause the death of one or more third-country nationals should be sanctioned with more severe penalties than other types of attempts. Setting minimum rules on the maximum level of penalties at Union level for such attempts is justified and proportionate in view of the transnational dimension of the offence, and the fact that an attempt to commit the offence resulting in the death of third-country nationals bears the same gravity as a committed offence resulting* *deleted*

in death.

Or. en

Amendment 200

Nadine Morano

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) Where national law provides for it, legal persons should be held criminally liable for the facilitation of unauthorised entry, transit and stay in the Union. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanction types and levels, as laid down in this Directive in order to achieve its objectives. They should be accompanied by accessory measures. The financial situation of legal persons should be considered to ensure the dissuasiveness of the sanction imposed with criminal and non-criminal fines taking into account worldwide turnover of the legal persons.

Amendment

(13) Where national law provides for it, legal persons should be held criminally liable for the facilitation of unauthorised entry, transit and stay in the Union. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanction types and levels, as laid down in this Directive in order to achieve its objectives. They should be accompanied by accessory measures, ***which may include the dissolution of such legal persons***. The financial situation of legal persons should be considered to ensure the dissuasiveness of the sanction imposed with criminal and non-criminal fines taking into account worldwide turnover of the legal persons.

Or. fr

Amendment 201

François-Xavier Bellamy

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) Where national law provides for it, legal persons should be held criminally liable for the facilitation of unauthorised entry, transit and stay in the Union.

Amendment

(13) Where national law provides for it, legal persons should be held criminally liable for the facilitation of unauthorised entry, transit and stay in the Union,

Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanction types and levels, as laid down in this Directive in order to achieve its objectives. They should be accompanied by accessory measures. The financial situation of legal persons should be considered to ensure the dissuasiveness of the sanction imposed with criminal and non-criminal fines taking into account worldwide turnover of the legal persons.

whatever their statutory or actual purposes may be. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanction types and levels, as laid down in this Directive in order to achieve its objectives. They should be accompanied by accessory measures. The financial situation of legal persons should be considered to ensure the dissuasiveness of the sanction imposed with criminal and non-criminal fines taking into account worldwide turnover of the legal persons.

Or. fr

Amendment 202 **Erik Marquardt**

Proposal for a directive **Recital 13**

Text proposed by the Commission

(13) Where national law provides for it, legal persons should be held criminally liable for ***the facilitation of unauthorised entry, transit and stay in the Union.*** Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanction types and levels, as laid down in this Directive in order to achieve its objectives. They should be accompanied by accessory measures. The financial situation of legal persons should be considered to ensure the dissuasiveness of the sanction imposed with criminal and non-criminal fines taking into account worldwide turnover of the legal persons.

Amendment

(13) Where national law provides for it, legal persons should be held criminally liable for ***migrant smuggling.*** Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanction types and levels, as laid down in this Directive in order to achieve its objectives. They should be accompanied by accessory measures. The financial situation of legal persons should be considered to ensure the dissuasiveness of the sanction imposed with criminal and non-criminal fines taking into account worldwide turnover of the legal persons.

Or. en

Amendment 203

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) Where national law provides for it, legal persons should be held criminally liable for the facilitation of unauthorised entry, transit **and stay** in the Union. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanction types and levels, as laid down in this Directive in order to achieve its objectives. They should be accompanied by accessory measures. The financial situation of legal persons should be considered to ensure the dissuasiveness of the sanction imposed with criminal and non-criminal fines taking into account worldwide turnover of the legal persons.

Amendment

(13) Where national law provides for it, legal persons should be held criminally liable for the facilitation of unauthorised entry **and** transit in the Union. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanction types and levels, as laid down in this Directive in order to achieve its objectives. They should be accompanied by accessory measures. The financial situation of legal persons should be considered to ensure the dissuasiveness of the sanction imposed with criminal and non-criminal fines taking into account worldwide turnover of the legal persons.

Or. en

Amendment 204

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) **Where** national law **provides for it**, legal persons **should be** held criminally liable for **the facilitation of unauthorised** entry, transit and stay in the Union. Member States **whose national law does not provide for the criminal liability of legal persons** should ensure that their administrative sanctioning systems provide

Amendment

(13) National law **should ensure that** legal persons, **including non-governmental organisations**, are held criminally liable for **enabling, including in the context of instrumentalisation, illegal** entry, transit and stay in the Union. Member States should ensure that their administrative sanctioning systems provide

for effective, dissuasive and proportionate sanction types and levels, as laid down in this Directive in order to achieve its objectives. They should be accompanied by accessory measures. The financial situation of legal persons should be considered to ensure the dissuasiveness of the sanction imposed with criminal and non-criminal fines taking into account worldwide turnover of the legal persons.

for effective, dissuasive and proportionate sanction types and levels, as laid down in this Directive in order to achieve its objectives. They should be accompanied by accessory measures. The financial situation of legal persons should be considered to ensure the dissuasiveness of the sanction imposed with criminal and non-criminal fines taking into account worldwide turnover of the legal persons.

Or. pl

Amendment 205

Lena Düpont, Lukas Mandl, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive Recital 13 a (new)

Text proposed by the Commission

Amendment

(13 a) However, given that this Regulation constitutes a development of the Schengen acquis, account should be taken of the specific situation of those Member States to which other EU criminal law instruments do not apply, and which, in accordance with their national law, do not determine the amount of criminal or non-criminal fines for legal persons in proportion to the gravity of the offence committed by a natural person, but apply, instead, other criteria, including a criterion based on the lack of organisational structures and safeguards or other shortcomings within the organisation of the legal person. If imperative to preserve the coherence of the national penalty system for legal persons, those Member States should have the possibility to continue applying that alternative criterion, provided that, as a result, the level of penalties applicable to legal persons is consistent with the one provided for in national law for crimes of a comparable seriousness and that the

penalties are effective proportionate and dissuasive.

Or. en

Amendment 206

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Effectiveness of sanctions imposed in practice should be fostered through providing for aggravating circumstances that reflect the severity of the criminal offence. Graver circumstances should include situations conducive to other unlawful activities, such as exploitation, including sexual exploitation, instrumentalisation, dispossession of identity documents, and involvement in illegal employment.

Amendment

(14) Effectiveness of sanctions imposed in practice should be fostered through providing for aggravating circumstances that reflect the severity of the criminal offence. Graver circumstances should include situations conducive to other unlawful activities, such as exploitation, including sexual exploitation, ***paedophilia, terrorism, drug trafficking, forced labour and modern slavery, deprivation of liberty***, dispossession of identity documents, and involvement in illegal employment.

Or. pl

Amendment 207

Fabienne Keller, Raquel García Hermida-Van Der Walle, Hilde Vautmans, Irena Joveva

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

Sophie Wilmès

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Effectiveness of sanctions imposed in practice should be fostered through providing for aggravating circumstances that reflect the severity of the criminal offence. Graver circumstances should

Amendment

(14) Effectiveness of sanctions imposed in practice should be fostered through providing for aggravating circumstances that reflect the severity of the criminal offence. Graver circumstances should

include situations conducive to other unlawful activities, such as exploitation, including sexual exploitation, instrumentalisation, dispossession of identity documents, and involvement in illegal employment.

include situations conducive to other unlawful activities, such as exploitation, including sexual exploitation, ***forced marriage or illegal adoption, forced criminal activities***, instrumentalisation, dispossession of identity documents, and involvement in illegal employment.

Or. en

Amendment 208

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Effectiveness of sanctions imposed in practice should be fostered through providing for aggravating circumstances that reflect the severity of the criminal offence. Graver circumstances should include situations conducive to other unlawful activities, such as exploitation, including sexual exploitation, ***instrumentalisation, dispossession of identity documents, and involvement in illegal employment.***

Amendment

(14) Effectiveness of sanctions imposed in practice should be fostered through providing for aggravating circumstances that reflect the severity of the criminal offence. Graver circumstances should include situations conducive to other unlawful activities, such as exploitation, including sexual exploitation.

Or. en

Amendment 209

Cecilia Strada

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Effectiveness of sanctions imposed in practice should be fostered through providing for aggravating circumstances that reflect the severity of the criminal offence. Graver circumstances should include situations conducive to other

Amendment

(14) Effectiveness of sanctions imposed in practice should be fostered through providing for aggravating circumstances that reflect the severity of the criminal offence. Graver circumstances should include situations conducive to other

unlawful activities, such as exploitation, including sexual exploitation, **instrumentalisation**, dispossession of identity documents, and involvement in illegal employment.

unlawful activities, such as exploitation, including sexual exploitation, dispossession of identity documents, and involvement in illegal employment.

Or. en

Amendment 210
Erik Marquardt

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Effectiveness of sanctions imposed in practice should be fostered through providing for aggravating circumstances that reflect the severity of the criminal offence. Graver circumstances should include situations conducive to other unlawful activities, such as exploitation, including sexual exploitation, **instrumentalisation, dispossession of identity documents, and involvement in illegal employment.**

Amendment

(14) Effectiveness **and proportionality** of sanctions imposed in practice should be fostered through providing for aggravating circumstances that reflect the severity of the criminal offence. Graver circumstances should include situations conducive to other unlawful activities, such as **causing death, harm or** exploitation, including sexual exploitation, **of the persons subject to the offence.**

Or. en

Amendment 211
Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14 a) In order to effectively prevent and counter the facilitation of unauthorised entry into the Union, it is necessary to consider the possession, manufacture, or distribution of materials and tools commonly used for such purposes as an

aggravating circumstance. This includes, in particular, false or forged documents, modified vehicles, and sea vessels adapted for concealment or illegal transport. Such measures are essential to disrupt the logistics supporting smuggling networks and reduce the risks to the safety and dignity of migrants.

Or. en

Amendment 212

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) The approximation and effectiveness of sanction levels imposed in practice should also be fostered with common mitigating circumstances that reflect the contribution provided by natural *or legal* persons that perpetrated a criminal offence referred to in this Directive through cooperation with the competent national authorities in the investigation or detection of such offence.

Amendment

(15) The approximation and effectiveness of sanction levels imposed in practice should also be fostered with common mitigating circumstances that reflect the contribution provided by natural persons that perpetrated a criminal offence referred to in this Directive through cooperation with the competent national authorities in the investigation or detection of such offence.

Or. en

Amendment 213

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) To counter the facilitation of unauthorised entry, transit and stay in the Union, it is of outmost importance to ensure the effective seizure of the proceedings of the crime, as well as of the instrumentalities that are used to commit

Amendment

deleted

the criminal offences, including for instance boats, engines and other boat components and vehicles. For this purpose, full use should be made of existing instruments on the freezing and confiscation of proceeds and instrumentalities of crime, such as Directive 2014/42/EU of the European Parliament and of the Council⁶ .

⁶ *Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39 ELI: <http://data.europa.eu/eli/dir/2014/42/oj>).*

Or. en

Amendment 214
Erik Marquardt

Proposal for a directive
Recital 17

Text proposed by the Commission

Amendment

(17) To counter the facilitation of unauthorised entry, transit and stay in the Union, it is of outmost importance to ensure the effective seizure of the proceedings of the crime, as well as of the instrumentalities that are used to commit the criminal offences, including for instance boats, engines and other boat components and vehicles. For this purpose, full use should be made of existing instruments on the freezing and confiscation of proceeds and instrumentalities of crime, such as Directive 2014/42/EU of the European Parliament and of the Council⁶ .

deleted

⁶ *Directive 2014/42/EU of the European Parliament and of the Council of 3 April*

2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39 ELI: <http://data.europa.eu/eli/dir/2014/42/oj>).

Or. en

Amendment 215
Nadine Morano

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) To counter the facilitation of unauthorised entry, transit and stay in the Union, it is of outmost importance to ensure the effective seizure of the proceedings of the crime, as well as of the instrumentalities that are used to commit the criminal offences, including for instance boats, engines and other boat components and vehicles. For this purpose, full use should be made of existing instruments on the freezing and confiscation of proceeds and instrumentalities of crime, such as Directive 2014/42/EU of the European Parliament and of the Council⁶.

⁶ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39 ELI: <http://data.europa.eu/eli/dir/2014/42/oj>).

Amendment

(17) To counter the facilitation of unauthorised entry, transit and stay in the Union, it is of outmost importance to ensure the effective seizure **and confiscation** of the proceedings of the crime, as well as of the instrumentalities that are used to commit the criminal offences, including for instance boats, engines and other boat components and vehicles. For this purpose, full use should be made of existing instruments on the freezing and confiscation of proceeds and instrumentalities of crime, such as Directive 2014/42/EU of the European Parliament and of the Council⁶.

⁶ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39 ELI: <http://data.europa.eu/eli/dir/2014/42/oj>).

Or. fr

Amendment 216
Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) To counter the facilitation of unauthorised entry, transit and stay in the Union, it is of outmost importance to ensure the effective seizure of the proceedings of the crime, as well as of the instrumentalities that are used to commit the criminal offences, including for instance boats, engines and other boat components and vehicles. For this purpose, full use should be made of existing instruments on the freezing and confiscation of proceeds and instrumentalities of crime, such as Directive 2014/42/EU of the European Parliament and of the Council⁶.

⁶ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39 ELI: <http://data.europa.eu/eli/dir/2014/42/oj>).

Amendment

(17) To **effectively** counter the facilitation of unauthorised entry, transit and stay in the Union, it is of outmost importance to ensure the effective seizure of the proceedings of the crime, as well as of the instrumentalities that are used to commit the criminal offences, including for instance boats, engines and other boat components and vehicles. For this purpose, full use should be made of existing instruments on the freezing and confiscation of proceeds and instrumentalities of crime, such as Directive 2014/42/EU of the European Parliament and of the Council⁶.

⁶ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39 ELI: <http://data.europa.eu/eli/dir/2014/42/oj>).

Or. en

Amendment 217
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) Considering the cross-border nature of the criminal offences referred to in this Directive, **the mobility of perpetrators of illegal conducts** and the possibility of cross-border investigations, it is **necessary** to lay down rules on the establishment of jurisdiction by Member States in order to

Amendment

(18) Considering the cross-border nature of the criminal offences referred to in this Directive and the possibility of cross-border investigations, it is **appropriate** to lay down rules on the establishment of jurisdiction by Member States in order to counter such conduct effectively **while**

counter such conduct effectively. *The unauthorised transit or stay taking place in whole or in part in the territory of a Member State should allow a Member State different from the Member State of first unauthorised entry to establish jurisdiction. The gravity and the cross-border nature of the offences referred to in this Directive require that jurisdiction be established not only on natural persons who are nationals of the Member State concerned, but also on third-country nationals habitually residing in its territory. Jurisdiction over legal persons should be established when these are established in the Member State concerned or in respect of any business carried out in whole or in part in its territory. For the same reasons, it is necessary that a Member State establishes jurisdiction over criminal offences committed on board of ships and aircrafts registered in the Member State or flying its flag. Member States, including those other than that of first unauthorised entry, should establish jurisdiction in relation to criminal offences referred to in this Directive when this results in the entry, transit or stay of the third-country nationals subject to the offence in the concerned Member State.*

protecting the victims of such offences.

Or. en

Amendment 218
Erik Marquardt

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) Considering the cross-border nature of the criminal offences referred to in this Directive, *the mobility of perpetrators of illegal conducts* and the possibility of cross-border investigations, it is necessary to lay down rules on the establishment of

Amendment

(18) Considering the cross-border nature of the criminal offences referred to in this Directive and the possibility of cross-border investigations, it is necessary to lay down rules on the establishment of jurisdiction by Member States in order to

jurisdiction by Member States in order to counter such conduct effectively. ***The unauthorised transit or stay taking place in whole or in part in the territory of a Member State should allow a Member State different from the Member State of first unauthorised entry to establish jurisdiction.*** The gravity and the cross-border nature of the offences referred to in this Directive require that jurisdiction be established not only on natural persons who are nationals of the Member State concerned, but also on ***third-country nationals*** habitually residing in its territory. Jurisdiction over legal persons should be established when these are established in the Member State concerned or in respect of any business carried out in whole or in part in its territory. For the same reasons, it is necessary that a Member State establishes jurisdiction over criminal offences committed on board of ships and aircrafts registered in the Member State or flying its flag. ***Member States, including those other than that of first unauthorised entry, should establish jurisdiction in relation to criminal offences referred to in this Directive when this results in the entry, transit or stay of the third-country nationals subject to the offence in the concerned Member State.***

counter such conduct effectively. The gravity and the cross-border nature of the offences referred to in this Directive require that jurisdiction be established not only on natural persons who are nationals of the Member State concerned, but also on ***persons*** habitually residing in its territory. Jurisdiction over legal persons should be established when these are established in the Member State concerned or in respect of any business carried out in whole or in part in its territory. For the same reasons, it is necessary that a Member State establishes jurisdiction over criminal offences committed on board of ships and aircrafts registered in the Member State or flying its flag.

Or. en

Amendment 219

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Where assistance is provided for a third-country national to reach the territory of a Member State, the concerned Member States may also be able to establish their jurisdiction with regard to attempts, even if the third-

Amendment

deleted

country national does not enter their territory. Member States should at least establish their jurisdiction with regard to the attempt of an offence that caused the death of a third-country national..

Or. en

Amendment 220
Erik Marquardt

Proposal for a directive
Recital 19

Text proposed by the Commission

Amendment

(19) Where assistance is provided for a third-country national to reach the territory of a Member State, the concerned Member States may also be able to establish their jurisdiction with regard to attempts, even if the third-country national does not enter their territory. Member States should at least establish their jurisdiction with regard to the attempt of an offence that caused the death of a third-country national..

deleted

Or. en

Amendment 221
Georgiana Teodorescu

Proposal for a directive
Recital 19

Text proposed by the Commission

Amendment

(19) Where assistance is provided for a third-country national to reach the territory of a Member State, the concerned Member States **may** also be able to establish their jurisdiction with regard to attempts, even if the third-country national does not enter their territory. **Member States should at least establish their jurisdiction** with

(19) Where assistance is provided for a third-country national to reach the territory of a Member State, the concerned Member States **should** also be able to establish their jurisdiction with regard to attempts, even if the third-country national does not enter their territory, **including** with regard to the attempt of an offence that caused the death

regard to the attempt of an offence that caused the death of a third-country national..

of a third-country national.

Or. ro

Amendment 222

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Where a criminal offence falls within jurisdiction of more than one Member State, the Member States concerned should cooperate to determine which Member State is best placed to prosecute. Where the competent authorities of the Member States concerned decide, following cooperation or direct consultations under Council Framework Decision 2009/948/JHA⁷, to centralise criminal proceedings in a single Member State through the transfer of criminal proceedings, the Regulation (EU) .../... [proposed Regulation on the transfer of proceedings in criminal matters]⁸ should be used for such a transfer. For this purpose, the relevant criteria of Article 5 of that Regulation should be duly taken into account. The priority and weight of such criteria should be based on the facts and merits of each individual case.

⁷ Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42, ELI: http://data.europa.eu/eli/dec_framw/2009/948/oj).

⁸ COM(2023) 185 final.

Amendment

(20) Where a criminal offence falls within **the** jurisdiction of more than one Member State, the Member States concerned should cooperate to determine which Member State is best placed to prosecute. Where the competent authorities of the Member States concerned decide, following cooperation or direct consultations under Council Framework Decision 2009/948/JHA⁷, to centralise criminal proceedings in a single Member State through the transfer of criminal proceedings, the Regulation (EU) .../... [proposed Regulation on the transfer of proceedings in criminal matters]⁸ should be used for such a transfer. For this purpose, the relevant criteria of Article 5 of that Regulation should be duly taken into account. The priority and weight of such criteria should be based on the facts and merits of each individual case.

⁷ Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42, ELI: http://data.europa.eu/eli/dec_framw/2009/948/oj).

⁸ COM(2023) 185 final.

Amendment 223**Erik Marquardt****Proposal for a directive****Recital 20***Text proposed by the Commission*

(20) Where a criminal offence falls within jurisdiction of more than one Member State, the Member States concerned should cooperate to determine which Member State is best placed to prosecute. Where the competent authorities of the Member States concerned decide, following cooperation or direct consultations under Council Framework Decision 2009/948/JHA⁷, to centralise criminal proceedings in a single Member State through the transfer of criminal proceedings, the Regulation (EU) .../... [proposed Regulation on the transfer of proceedings in criminal matters]⁸ should be used for such a transfer. For this purpose, the relevant criteria of Article 5 of that Regulation should be duly taken into account. The priority and weight of such criteria should be based on the facts and merits of each individual case.

⁷ Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42, ELI: http://data.europa.eu/eli/dec_framw/2009/948/oj).

⁸ COM(2023) 185 final.

Amendment

(20) Where a criminal offence falls within **the** jurisdiction of more than one Member State, the Member States concerned should cooperate to determine which Member State is best placed to prosecute. Where the competent authorities of the Member States concerned decide, following cooperation or direct consultations under Council Framework Decision 2009/948/JHA⁷, to centralise criminal proceedings in a single Member State through the transfer of criminal proceedings, the Regulation (EU) .../... [proposed Regulation on the transfer of proceedings in criminal matters]⁸ should be used for such a transfer. For this purpose, the relevant criteria of Article 5 of that Regulation should be duly taken into account. The priority and weight of such criteria should be based on the facts and merits of each individual case.

⁷ Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42, ELI: http://data.europa.eu/eli/dec_framw/2009/948/oj).

⁸ COM(2023) 185 final.

Amendment 224

Ilaria Salis, Damien Carême, Estrella Galán

**Proposal for a directive
Recital 20 a (new)**

Text proposed by the Commission

Amendment

(20 a) Member States should ensure that victims of the offences referred to in this Directive receive immediate assistance and support. Such support should be provided without requiring the victim's cooperation in criminal proceedings and should include necessary services such as safe accommodation, medical care, psychological support, and interpretation services.

Or. en

Amendment 225

Ilaria Salis, Damien Carême, Estrella Galán

**Proposal for a directive
Recital 20 b (new)**

Text proposed by the Commission

Amendment

(20 b) Special attention should be given to victims with particular needs, including children, pregnant women, persons with disabilities, and those who have suffered severe psychological, physical, or sexual violence. The best interests of the child shall be a primary consideration, and where a person's age is uncertain, they should be presumed to be a child to ensure they receive immediate protection and support.

Or. en

Amendment 226

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) To counter the facilitation of unauthorised entry, transit **and stay** in the Union, both criminal justice and preventive mechanisms should be used. The prevention of the criminal offences referred to in this Directive should mitigate the need for criminal justice response and should have wider benefits in crime reduction. Such measures should aim at raising public awareness, and include information campaigns, research and education programmes. These should be carried out in cooperation with other Member States, relevant Union agencies and third countries.

Amendment

(21) To counter the facilitation of unauthorised entry **and** transit in the Union **by organised criminal groups that use violence or exploitation against migrants**, both criminal justice and preventive mechanisms should be used. The prevention of the criminal offences referred to in this Directive should mitigate the need for criminal justice response and should have wider benefits in crime reduction. Such measures should aim at **ensuring access to international protection in the Union, including through issuing humanitarian visas, developing labour migration schemes, increasing visa-free agreements while** raising public awareness **about safe and legal pathways to the Union**, and include information campaigns, research and education programmes. These should be carried out in cooperation with other Member States, relevant Union agencies and third countries.

Or. en

Amendment 227

Fabienne Keller, Raquel García Hermida-Van Der Walle, Hilde Vautmans, Irena Joveva, Jan-Christoph Oetjen

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

Sophie Wilmès

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) To counter the facilitation of unauthorised entry, transit and stay in the Union, both criminal justice and preventive mechanisms should be used. The prevention of the criminal offences referred to in this Directive should mitigate the need for criminal justice response and

Amendment

(21) To counter the facilitation of unauthorised entry, transit and stay in the Union, both criminal justice and preventive mechanisms should be used. The prevention of the criminal offences referred to in this Directive should mitigate the need for criminal justice response and

should have wider benefits in crime reduction. Such measures should aim at raising public awareness, and include information campaigns, research and education programmes. These should be carried out in cooperation with other Member States, relevant Union agencies and third countries.

should have wider benefits in crime reduction. Such measures should aim at raising public awareness, and include information campaigns, research and education programmes. These should be carried out in cooperation with other Member States, relevant Union agencies and third countries. ***Europol should play a key role in supporting these efforts by facilitating the exchange of information, identifying trends and emerging modi operandi, and supporting Member States in their preventive and operational activities, in accordance with its mandate.***

Or. en

Amendment 228
Erik Marquardt

Proposal for a directive
Recital 21

Text proposed by the Commission

(21) To counter ***the facilitation of unauthorised entry, transit and stay in the Union***, both criminal justice and preventive mechanisms should be used. The prevention of the criminal offences referred to in this Directive should mitigate the need for criminal justice response and should have wider benefits in crime reduction. Such measures should aim at raising public awareness, and include information campaigns, research and education programmes. ***These should be carried out*** in cooperation with other Member States, relevant Union agencies ***and*** third countries.

Amendment

(21) To counter ***migrant smuggling***, both criminal justice and preventive mechanisms should be used. The prevention of the criminal offences referred to in this Directive should mitigate the need for criminal justice response and should have wider benefits in crime reduction. Such measures should aim at raising public awareness, and include information campaigns, research and education programmes. ***Member States should carry these out*** in cooperation with other Member States, relevant Union agencies, ***relevant international and civil society organisations, and relevant authorities of*** third countries.

Or. en

Amendment 229
Sebastian Tynkkynen

Proposal for a directive
Recital 21

Text proposed by the Commission

(21) To counter the facilitation of unauthorised entry, transit and stay in the Union, both criminal justice and preventive mechanisms should be used. The prevention of the criminal offences referred to in this Directive should mitigate the need for criminal justice response and should have wider benefits in crime reduction. Such measures ***should aim at raising public awareness, and include information campaigns, research and education programmes***. These should be carried out in cooperation with other Member States, relevant Union agencies and third countries.

Amendment

(21) To counter the facilitation of unauthorised entry, transit and stay in the Union, both criminal justice and preventive mechanisms should be used. The prevention of the criminal offences referred to in this Directive should mitigate the need for criminal justice response and should have wider benefits in crime reduction. Such measures ***would include, for example, the construction of physical border barriers and the outsourcing of asylum procedures to third countries***. These should be carried out in cooperation with other Member States, relevant Union agencies and third countries.

Or. fi

Amendment 230
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) In the implementation and application of this Directive, Member States should ensure that the procedural rights of suspects or accused persons in criminal proceedings, as well the rights of victims of crime, are respected. In that regard, obligations under this Directive do not affect Member States' obligations under Union law on procedural rights in criminal proceedings and on the rights of victims of crime, in particular under Directives 2010/64/EU, 2012/13/EU, 2012/29/EU, 2013/48/EU, (EU) 2016/343, (EU) 2016/800 and (EU) 2016/1919.

Or. en

Amendment 231

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba,
Jadwiga Wiśniewska

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) Lack of resources and enforcement powers for national authorities which detect, investigate, prosecute or adjudicate the criminal offences referred to in this Directive creates obstacles for the effective prevention and punishment thereof. In particular, a shortage of resources may prevent authorities from taking action or limit their enforcement actions, allowing offenders to escape liability or to receive punishment that does not correspond to the gravity of the criminal offence. Minimum criteria concerning resources and enforcement powers should therefore be established.

Amendment

(22) Lack of resources and enforcement powers for national authorities which detect, investigate, prosecute or adjudicate the criminal offences referred to in this Directive creates obstacles for the effective prevention and punishment thereof. In particular, a shortage of resources may prevent authorities from taking action or limit their enforcement actions, allowing offenders to escape liability or to receive punishment that does not correspond to the gravity of the criminal offence. Minimum criteria concerning resources and enforcement powers should therefore be established. ***In accordance with the principles of subsidiarity and solidarity, the Union institutions and Member States should take into account in their various policies that EU border countries bear the greatest burden in preventing illegal migration, particularly in situations of migration crises and instrumentalisation, which, in many respects, also have negative repercussions for border regions. Balancing these burdens requires the Union to deploy compensation instruments to offset these excessive costs.***

Or. pl

Amendment 232

Nadine Morano

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) The effective functioning of the enforcement chain depends on a range of specialist skills. The complexity of the challenges posed by the facilitation of unauthorised entry, transit and stay in the Union, and the nature of such criminal offences require a multidisciplinary approach, a high level of legal knowledge, technical expertise and financial support as well as a high level of training and specialisation within all relevant competent authorities. Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate criminal offences concerning the facilitation of unauthorised entry, transit and stay in the Union.

Amendment

(23) The effective functioning of the enforcement chain depends on a range of specialist skills. The complexity of the challenges posed by the facilitation of unauthorised entry, transit and stay in the Union, and the nature of such criminal offences require a multidisciplinary approach, a high level of legal knowledge, technical expertise and financial support as well as a high level of training and specialisation within all relevant competent authorities. Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate criminal offences concerning the facilitation of unauthorised entry, transit and stay in the Union. ***The relevant Union agencies and bodies operating in the fields covered by this directive should be able to support this training.***

Or. fr

Amendment 233

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) The effective functioning of the enforcement chain depends on a range of specialist skills. The complexity of the challenges posed by the facilitation of unauthorised entry, transit ***and stay*** in the Union, and the nature of such criminal offences require a multidisciplinary approach, a high level of legal knowledge, technical expertise and financial support as well as a high level of training and specialisation within all relevant competent authorities. Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate criminal offences concerning

Amendment

(23) The effective functioning of the enforcement chain depends on a range of specialist skills. The complexity of the challenges posed by the facilitation of unauthorised entry ***and*** transit in the Union ***by organised criminal groups that use violence or exploitation against migrants***, and the nature of such criminal offences require a multidisciplinary approach, a high level of legal knowledge, technical expertise and financial support as well as a high level of training and specialisation within all relevant competent authorities. Member States should provide training appropriate to the function of those who

the facilitation of unauthorised entry, transit **and stay** in the Union.

detect, investigate, prosecute or adjudicate criminal offences concerning the facilitation of unauthorised entry **and** transit in the Union **by organised criminal groups**.

Or. en

Amendment 234

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) The effective functioning of the enforcement chain depends on a range of specialist skills. The complexity of the challenges posed by the facilitation of unauthorised entry, transit and stay in the Union, and the nature of such criminal offences require a multidisciplinary approach, a high level of legal knowledge, technical expertise and financial support as well as a high level of training and specialisation within all relevant competent authorities. Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate criminal offences concerning the facilitation of unauthorised entry, transit and stay in the Union.

Amendment

(23) The effective functioning of the enforcement chain depends on a range of specialist skills. The complexity of the challenges posed by the **organisation or** facilitation of unauthorised entry, transit and stay in the Union, and the nature of such criminal offences require a multidisciplinary approach, a high level of legal knowledge, technical expertise and financial support, **operational capacities**, as well as a high level of training and specialisation within all relevant competent authorities. Member States should provide **appropriate tools and** training appropriate to the function of those who detect, investigate, prosecute or adjudicate criminal offences concerning the facilitation of unauthorised entry, transit and stay in the Union.

Or. pl

Amendment 235

Erik Marquardt

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) The effective functioning of the enforcement chain depends on a range of specialist skills. The complexity of the challenges posed by ***the facilitation of unauthorised entry, transit and stay in the Union, and*** the nature of ***such*** criminal offences require a multidisciplinary approach, a high level of legal knowledge, technical expertise and financial support as well as a high level of training and specialisation within all relevant competent authorities. Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate criminal offences ***concerning the facilitation of unauthorised entry, transit and stay in the Union.***

Amendment

(23) The effective functioning of the enforcement chain depends on a range of specialist skills. The complexity of the challenges posed by ***migrant smuggling***, the nature of ***related*** criminal offences ***and their impact on fundamental rights*** require a multidisciplinary approach, a high level of legal knowledge, technical expertise and financial support as well as a high level of training and specialisation, ***including on EU and international human rights and migration law***, within all relevant competent authorities. Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate criminal offences ***related to migrant smuggling.***

Or. en

Amendment 236
Erik Marquardt

Proposal for a directive
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23 a) This Directive is without prejudice to the application of Directive 2004/81/EC, Directive 2011/36/EU and Directive 2012/29/EU laying down rules on the protection and support of victims of crimes. Member States should make sure that the provisions of Directive 2011/36/EU will always prevail over the application of the current Directive where constitutive elements of the offences concerning trafficking in human beings emerge in the course of the investigations of criminal acts in the area of migrant smuggling.

Or. en

Amendment 237

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23 a) Member States should provide training to law enforcement officials, legal professionals, judges and prosecutors on human rights defenders.

Or. en

Amendment 238

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, Elissavet Vozemberg-Vrionidi, François-Xavier Bellamy

Proposal for a directive

Recital 24

Text proposed by the Commission

Amendment

(24) To ensure successful enforcement, Member States should make available effective investigative tools for the criminal offences referred to in this Directive, such as those included in their national law for combating organised crime or other serious crimes, including for instance the interception of communications, covert surveillance including electronic surveillance, monitoring of bank accounts and other financial investigation tools. These tools should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union. In accordance with national law, the nature and gravity of the criminal offences under investigation should justify the use of these investigative tools. The right to the protection of personal data should be respected.

(24) To ensure successful enforcement, Member States should make available effective investigative tools ***and instruments*** for the criminal offences referred to in this Directive, such as those included in their national law for combating organised crime or other serious crimes, including for instance the interception of communications, covert surveillance including electronic surveillance, monitoring of bank accounts and other financial investigation tools. ***Additional effective instruments could include enhanced international cooperation for information exchange, cryptocurrency tracking, metadata analysis, the use of artificial intelligence technologies to process large volumes of data, as well as asset tracing and freezing to prevent money laundering.*** These tools should be applied in line with the principle

of proportionality and in full respect of the Charter of Fundamental Rights of the European Union. In accordance with national law, the nature and gravity of the criminal offences under investigation should justify the use of these investigative tools. The right to the protection of personal data should be respected.

Or. en

Amendment 239
Erik Marquardt

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) To ensure successful enforcement, Member States should make available effective investigative tools for the criminal offences referred to in this Directive, ***such as those included in their national law for combating organised crime or other serious crimes, including for instance the interception of communications, covert surveillance including electronic surveillance, monitoring of bank accounts and other financial investigation tools. These tools*** should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union. In accordance with national law, the nature and gravity of the criminal offences under investigation should justify the use of these investigative tools. The right to the protection of personal data should be respected.

Amendment

(24) To ensure successful enforcement, Member States should make available effective investigative tools for the criminal offences referred to in this Directive, ***which*** should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union. In accordance with national law, the nature and gravity of the criminal offences under investigation should justify the use of these investigative tools. The right to the protection of personal data should be respected.

Or. en

Amendment 240
Nadine Morano

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) To ensure successful enforcement, Member States should make available effective investigative tools for the criminal offences referred to in this Directive, such as those included in their national law for combating organised crime or other serious crimes, including for instance the interception of communications, covert surveillance including electronic surveillance, monitoring of bank accounts and other financial investigation tools. ***These tools should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union.*** In accordance with national law, the nature and gravity of the criminal offences under investigation should justify the use of these investigative tools. The right to the protection of personal data should be respected.

Amendment

(24) To ensure successful enforcement, Member States should make available effective investigative tools for the criminal offences referred to in this Directive, such as those included in their national law for combating organised crime or other serious crimes, including for instance the interception of communications, covert surveillance including electronic surveillance, monitoring of bank accounts and other financial investigation tools. In accordance with national law, the nature and gravity of the criminal offences under investigation should justify the use of these investigative tools. The right to the protection of personal data should be respected.

Or. fr

Amendment 241

Fabienne Keller, Abir Al-Sahlani, Sophie Wilmès, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) To ensure successful enforcement, Member States should make available effective investigative tools for the criminal offences referred to in this Directive, such as those included in their national law for combating organised crime or other serious crimes, including for instance the interception of communications, covert surveillance

Amendment

(24) To ensure successful enforcement, Member States should make available effective investigative tools for the criminal offences referred to in this Directive, such as those included in their national law for combating organised crime or other serious crimes, including for instance the interception of communications, covert surveillance

including electronic surveillance, monitoring of bank accounts and other financial investigation tools. These tools should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union. In accordance with national law, the nature and gravity of the criminal offences under investigation should justify the use of these investigative tools. ***The right to the protection of personal data should be respected.***

including electronic surveillance, monitoring of bank accounts and other financial investigation tools. These tools should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union, ***in particular the rights to the protection of personal data and for private and family life.*** In accordance with national law, the nature and gravity of the criminal offences under investigation should justify the use of these investigative tools.

Or. en

Justification

it fits better in this part of the paragraph than at the very end

Amendment 242

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 24

Text proposed by the Commission

(24) ***To ensure successful enforcement, Member States should make available effective*** investigative tools for the criminal offences referred to in this Directive, such as those included in ***their*** national law for combating organised crime or other serious crimes, ***including for instance the interception of communications, covert surveillance including electronic surveillance, monitoring of bank accounts and other financial investigation tools.*** ***These tools*** should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union. ***In accordance with national law, the nature and gravity*** of the ***criminal offences under investigation should justify the use*** of these ***investigative tools***. The right to the protection of personal data should be

Amendment

(24) Investigative tools for the criminal offences referred to in this Directive, such as those included in national law for combating organised crime or other serious crimes should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union ***as well as in full compliance with the rights to privacy and freedom of expression guaranteed in articles 17 and 19 of the International Covenant on Civil and Political Rights (ICCPR), incorporating the three essential tests of legality, necessity and proportionality, and legitimacy, necessary for any restriction*** of these ***rights***. The right to the protection of personal data should be respected.

respected.

Or. en

Amendment 243

Erik Marquardt

Proposal for a directive

Recital 25

Text proposed by the Commission

Amendment

(25) Online content constituting or facilitating criminal offences referred to in this Directive, notably providing assistance to or publicly instigating unauthorised entry, transit and stay in the EU through the internet, will be subject to measures pursuant to Regulation (EU) 2022/2065 of the European Parliament and of the Council⁹ as regards illegal content. *deleted*

⁹ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/2065/oj>).

Or. en

Amendment 244

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 25

Text proposed by the Commission

Amendment

(25) Online content constituting or facilitating criminal offences referred to in this Directive, notably providing *deleted*

assistance to or publicly instigating unauthorised entry, transit and stay in the EU through the internet, will be subject to measures pursuant to Regulation (EU) 2022/2065 of the European Parliament and of the Council⁹ as regards illegal content.

⁹ *Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/2065/oj>).*

Or. en

Amendment 245

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Recital 26

Text proposed by the Commission

(26) *To effectively tackle the facilitation of unauthorised entry, transit and stay in the Union, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in the criminal offences referred to in this Directive, the efforts to combat them and their results. Member States should collect and report to the Commission relevant statistical data on such offences. The Commission should regularly assess and publish the results based on data transmitted by the Member States. Member States should also regularly collect and disseminate statistical data and information on the application of this Directive to allow for the monitoring of its implementation. Statistical data and information should be*

Amendment

(26) *The collection of accurate, coherent and anonymised data and the timely publication of collected data and statistics are fundamental to ensure full knowledge on the scope of the offence referred to in this Directive. Introducing a requirement for Member States to collect and report to the Commission statistical data every year in a harmonised way is a relevant step to enhance the general understanding of the phenomenon and to ensure the adoption of data-informed policies and strategies.*

comparable between the Member States and collected on the basis of common minimum standards.

Or. en

Amendment 246

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Recital 26

Text proposed by the Commission

(26) To effectively tackle the facilitation of unauthorised entry, transit and stay in the Union, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in the criminal offences referred to in this Directive, the efforts to combat them and their results. Member States should collect and report to the Commission relevant statistical data on such offences. The Commission should regularly assess and publish the results based on data transmitted by the Member States. Member States should also regularly collect and disseminate statistical data and information on the application of this Directive to allow for the monitoring of its implementation. Statistical data and information should be comparable between the Member States and collected on the basis of common minimum standards.

Amendment

(26) To effectively tackle the facilitation of unauthorised entry, transit and stay in the Union, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in the criminal offences referred to in this Directive, the efforts to combat them and their results. Member States should collect and report to the ***competent authorities and organisations, including the*** Commission, relevant statistical data on such offences. The Commission should regularly assess and publish the results based on data transmitted by the Member States. Member States should also regularly collect and disseminate statistical data and information on the application of this Directive to allow for the monitoring of its implementation. Statistical data and information should be comparable between the Member States and collected on the basis of common minimum standards.

Or. pl

Amendment 247

Erik Marquardt

Proposal for a directive

Recital 26

Text proposed by the Commission

(26) To effectively tackle ***the facilitation of unauthorised entry, transit and stay in the Union***, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in the criminal offences referred to in this Directive, the efforts to combat them and their results. Member States should collect and report to the Commission relevant statistical data on such offences. The Commission should regularly assess and publish the results based on data transmitted by the Member States. Member States should also regularly collect and disseminate statistical data and information on the application of this Directive to allow for the monitoring of its implementation. Statistical data and information should be comparable between the Member States and collected on the basis of common minimum standards.

Amendment

(26) To effectively tackle ***migrant smuggling***, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in the criminal offences referred to in this Directive, the efforts to combat them and their results. Member States should collect and report to the Commission relevant statistical data on such offences. The Commission should regularly assess and publish the results based on data transmitted by the Member States. Member States should also regularly collect and disseminate statistical data and information on the application of this Directive to allow for the monitoring of its implementation. Statistical data and information should be comparable between the Member States and collected on the basis of common minimum standards.

Or. en

Amendment 248

Karlo Ressler, Lena Düpont

Proposal for a directive Recital 26 a (new)

Text proposed by the Commission

Amendment

(26 a) To ensure the effective implementation of this Directive, Member States are encouraged, in accordance with their competences and, where appropriate, with Union support, to assess and address challenges related to custodial infrastructure. The development of additional custodial capacity, including prison and detention facilities, is a key factor in meeting the operational requirements of this Directive and in ensuring the enforceability of custodial

sanctions, particularly in relation to migrant smuggling and in Member States experiencing high migratory pressure or regional security challenges.

Or. en

Justification

Research, including the Council of Europe's SPACE I reports and findings from the European Parliamentary Research Service, highlights persistent prison overcrowding across the EU, with particular pressures in Member States situated along major migration routes. These capacity challenges directly affect the enforceability of custodial sanctions, especially for migrant smuggling offences, and risk undermining the Directive's objectives.

Amendment 249
Sebastian Tynkkynen

Proposal for a directive
Recital 27

Text proposed by the Commission

Amendment

(27) Since the objective of this Directive, namely to lay down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effect of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

deleted

Or. fi

Amendment 250
Georgiana Teodorescu

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) Since the objective of this Directive, **namely** to lay down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, **cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effect of the action, be better achieved at Union level,** the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

Amendment

(27) Since the objective of this Directive **is** to lay down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, **and** by reason of the scale and effect of the action, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union, in accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

Or. ro

Amendment 251
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) Since the objective of this Directive, namely to lay down minimum rules to prevent and counter the facilitation of unauthorised entry, transit **and stay** in the Union, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effect of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

Amendment

(27) Since the objective of this Directive, namely to lay down minimum rules to prevent and counter the facilitation of unauthorised entry **and** transit in the Union **by organised criminal groups that use violence or exploitation against migrants,** cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effect of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is

necessary to achieve that objective.

Or. en

Amendment 252

Erik Marquardt

Proposal for a directive

Recital 27

Text proposed by the Commission

(27) Since the objective of this Directive, namely to lay down minimum rules to prevent and counter ***the facilitation of unauthorised entry, transit and stay in the Union***, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effect of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

Amendment

(27) Since the objective of this Directive, namely to lay down minimum rules to prevent and counter ***migrant smuggling***, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effect of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

Or. en

Amendment 253

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Fabrice Leggeri

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) ***This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the respect and protection of human dignity, the right to the integrity of the person, the prohibition of torture and inhuman or degrading***

Amendment

deleted

treatment or punishment, the right to liberty and security, the rights of the child, the freedom of association, the right to an effective remedy and to a fair trial, the principles of legality and proportionality of criminal offences and penalties, and the prohibition of ne bis in idem.

Or. en

Amendment 254

Fabienne Keller, Abir Al-Sahlani, Sophie Wilmès, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the respect and protection of human dignity, the right to the integrity of the person, the prohibition of torture and inhuman or degrading treatment or punishment, the right to liberty and security, the rights of the child, the freedom of association, the right to an effective remedy and to a fair trial, the principles of legality and proportionality of criminal offences and penalties, and the prohibition of ne bis in idem.

Amendment

(28) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the respect and protection of human dignity, the right to the integrity of the person, the prohibition of torture and inhuman or degrading treatment or punishment, the right to liberty and security, the ***right to private and family life, the right to the protection of personal data***, the rights of the child, the freedom of association, the right to an effective remedy and to a fair trial, the principles of legality and proportionality of criminal offences and penalties, and the prohibition of ne bis in idem.

Or. en

Amendment 255

Cecilia Strada

Proposal for a directive

Recital 28

(28) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the respect and protection of human dignity, the right to the integrity of the person, the prohibition of torture and inhuman or degrading treatment or punishment, the right to liberty and security, the rights of the child, the freedom of association, the right to an effective remedy and to a fair trial, the principles of legality and proportionality of criminal offences and penalties, and the prohibition of ne bis in idem.

(28) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the respect and protection of human dignity, the right to the integrity of the person, the prohibition of torture and inhuman or degrading treatment or punishment, the ***protection in the event of removal, expulsion or extradition, the*** right to liberty and security, the rights of the child, the freedom of association, the right to an effective remedy and to a fair trial, the principles of legality and proportionality of criminal offences and penalties, and the prohibition of ne bis in idem.

Or. en

Amendment 256

Fabienne Keller, Raquel García Hermida-Van Der Walle, Hilde Vautmans, Irena Joveva, Jan-Christoph Oetjen

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

Sophie Wilmès

Proposal for a directive

Recital 28

Text proposed by the Commission

Amendment

(28) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the respect and protection of human dignity, the right to the integrity of the person, the prohibition of torture and inhuman or degrading treatment or punishment, the right to liberty and security, the rights of the child, the freedom of association, the right to an effective remedy and to a fair trial, the principles of legality and proportionality of criminal offences and penalties, and the prohibition of ne bis in idem.

(28) This Directive respects the fundamental rights and observes the ***values and*** principles recognised by ***the Treaties and*** the Charter of Fundamental Rights of the European Union, in particular the respect and protection of human dignity, the right to the integrity of the person, the prohibition of torture and inhuman or degrading treatment or punishment, the right to liberty and security, the rights of the child, the freedom of association, the right to an effective remedy and to a fair trial, the principles of legality and proportionality of criminal offences and penalties, and the prohibition of ne bis in idem.

idem.

Or. en

Amendment 257

Nadine Morano

Proposal for a directive

Recital 36

Text proposed by the Commission

(36) As regards Cyprus, ***Bulgaria and Romania***, this Directive constitutes an act building upon, or otherwise related to, the Schengen acquis within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession and Article 4(1) of the 2005 Act of Accession,

Amendment

(36) As regards Cyprus, this Directive constitutes an act building upon, or otherwise related to, the Schengen acquis within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession and Article 4(1) of the 2005 Act of Accession,

Or. fr

Amendment 258

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Recital 36

Text proposed by the Commission

(36) As regards Cyprus, ***Bulgaria and Romania***, this Directive constitutes an act building upon, or otherwise related to, the Schengen acquis within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession and Article 4(1) of the 2005 Act of Accession,

Amendment

(36) As regards Cyprus, this Directive constitutes an act building upon, or otherwise related to, the Schengen acquis within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession and Article 4(1) of the 2005 Act of Accession,

Or. en

Amendment 259

Nadine Morano

Proposal for a directive
Article premier – title

Text proposed by the Commission

Amendment

Subject matter

Subject matter *and scope*

Or. fr

Amendment 260
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

Amendment

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of facilitation of unauthorised entry, transit *and stay* of third-country nationals, as well as measures to prevent and counter the commission of such criminal offences.

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of facilitation of unauthorised entry *and* transit of third-country nationals *by organised criminal groups that use violence or exploitation against migrants*, as well as measures to prevent and counter the commission of such criminal offences.

It shall apply without prejudice to the protection afforded to refugees and asylum seekers in accordance with international law on refugees or other international instruments relating to human rights, in particular Member States' compliance with their international obligations pursuant to Articles 31 and 33 of the 1951 Convention relating to the status of refugees, as amended by the Protocol of New York of 1967 and the principle of non refoulement.

Or. en

Amendment 261
Nadine Morano

Proposal for a directive
Article premier – paragraph 1

Text proposed by the Commission

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of facilitation of unauthorised entry, transit and stay of third-country nationals, as well as measures to prevent and counter the commission of such criminal offences.

Amendment

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of facilitation of unauthorised entry, transit and stay of third-country nationals, as well as measures to prevent and counter the commission of such criminal offences. ***It also provides for the possibility of holding persons or entities, including non-governmental entities, criminally liable for knowingly facilitating such entries, in particular in the context of maritime rescue operations leading to the disembarkation of migrants in European ports, where such actions are carried out in coordination or knowingly contribute to the rationale of smugglers' organisations and networks.***

Or. fr

Amendment 262
Erik Marquardt

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of ***facilitation of unauthorised entry, transit and stay of third-country nationals***, as well as measures to prevent and counter the commission of such criminal offences.

Amendment

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of ***migrant smuggling***, as well as measures to prevent and counter the commission of such criminal offences ***by organised criminal groups***.

Or. en

Amendment 263
Erik Marquardt

Proposal for a directive
Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Third country nationals shall not become liable to criminal prosecution under this Directive for the fact of having been subject to the conduct set forth in article 3, or for their own entry and stay in the territory of a Member State.

Or. en

Amendment 264
Erik Marquardt

Proposal for a directive
Article 2

Text proposed by the Commission

Amendment

Article 2

deleted

Definitions

For the purposes of this Directive, the following definitions apply:

- 1. ‘third-country national’ means any person who is not a citizen of the Union within the meaning of Article 20(1) of the Treaty on the Functioning of the European Union and who is not a person enjoying the right of free movement under Union law as defined in Article 2, point 5, of Regulation (EU) 2016/399 of the European Parliament and of the Council¹⁹ ;***
- 2. ‘unaccompanied minor’ means a third-country national below the age of 18 years who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person, including a minor who is***

left unaccompanied after he or she has entered the territory of the Member States;

3. ‘legal person’ means any legal entity having such status under the applicable national law, except for States or public bodies exercising State authority and for public international organisations.

¹⁹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 077 23.3.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/399/oj>).

Or. en

Amendment 265
Cecilia Strada

Proposal for a directive
Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

Amendment

1 a. ‘humanitarian assistance’ means a needs-based emergency response encompassing both short-term and long-term relief and protection operations carried out both at sea and on land and aimed at obtaining access to people in need, saving and preserving life in situations of crisis and distress, preventing and alleviating human suffering as well as maintaining human dignity wherever the need arises.

Or. en

Justification

Reference to the definition contained in the European Consensus on Humanitarian Aid seems more fit-for-purpose and broad enough to encompass different forms of humanitarian assistance, while avoiding unduly restricting the circumstances in which humanitarian assistance could be provided.

Amendment 266

Milan Uhrík

Proposal for a directive

Article 2 – paragraph 1 – point 2

Text proposed by the Commission

2. ‘unaccompanied minor’ means a third-country national below the age of **18** years who *arrives* on the territory of *the* Member *States* unaccompanied by *an adult responsible for him or her whether by law or by the practice* of the Member State *concerned, and for as long as he or she is not effectively taken into the care of such a person*, including a minor who is left unaccompanied after he or she has entered the territory of the Member States;

Amendment

2. 2. ‘unaccompanied minor’ means a third-country national below the age of **16** years who *has entered or is present* on the territory of *a* Member *State* unaccompanied by *a person who is exercising parental responsibility under the law* of the Member State, *and whose age has been credibly verified by the competent authorities on the basis of available evidence*, including *medical or expert evidence*; ‘unaccompanied minor’ shall not mean a person about whom, following an administrative or professional assessment, substantial doubts are raised concerning the veracity of their claimed age, until their status as a minor is proven;

Or. sk

Amendment 267

Mariusz Kamiński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 2 – paragraph 1 – point 2

Text proposed by the Commission

2. ‘unaccompanied minor’ means a third-country national below the age of **18** years who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person, including a minor who is left unaccompanied after he or she has entered

Amendment

2. ‘unaccompanied minor’ means a third-country national below the age of **16** years who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person, including a minor who is left unaccompanied after he or she has entered

the territory of the Member States;

the territory of the Member States;

Or. pl

Amendment 268

Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive

Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

2 a. 'humanitarian assistance' means aid and actions taken to save lives, alleviate suffering and maintain human dignity during and after man-made crises and disasters caused by natural hazards, as well as to prevent and strengthen preparedness for when such situations occur. Humanitarian assistance should be governed by the key humanitarian principles of: humanity, impartiality, neutrality and independence.

Or. en

Amendment 269

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

2 a. 'humanitarian assistance' means short-term or long-term actions taken to save lives, alleviate suffering and maintain human dignity, including actions to reduce vulnerabilities and promote and protect human rights in full respect of Article 19 of the UN Protocol against the Smuggling of Migrants by Land, Sea and Air.

Or. en

Amendment 270

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. ‘legal person’ means any legal entity having such status under the applicable national law, except for States or public bodies exercising State authority and for public international organisations.

Amendment

deleted

Or. en

Amendment 271

François-Xavier Bellamy

Proposal for a directive

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. ‘legal person’ means any legal entity having such status under the applicable national law, except for States or public bodies exercising State authority and for public international organisations.

Amendment

3. ‘legal person’ means any legal entity having such status under the applicable national law, **regardless of its statutory or actual purpose**, except for States or public bodies exercising State authority and for public international organisations.

Or. fr

Amendment 272

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. ‘legal person’ means any legal

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Amendment

3. ‘legal person’ means any legal

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entity having such status under the applicable national law, *except for States or public bodies exercising State authority and for public international organisations.*

entity having such status under the applicable national law, *and non-governmental organisations in their various forms;*

Or. pl

Amendment 273

Nicolas Bay, Laurence Trochu, Marion Maréchal, Guillaume Peltier

Proposal for a directive

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. ‘legal person’ means any legal entity having such status under the applicable national law, except for States or public bodies exercising State authority and for public international organisations.

Amendment

3. ‘legal person’ means any legal entity having such status under the applicable national law, *including associations and NGOs*, except for States or public bodies exercising State authority and for public international organisations.

Or. fr

Amendment 274

Mariusz Kamiński, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 2 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

3a. Instrumentalisation shall be deemed to have occurred when a third country or hostile non-state actor encourages or facilitates the movement of third-country nationals or stateless persons to the external borders of the Union or to a Member State, where such actions indicate an intention on the part of that third country or hostile non-state actor to destabilise the Union or a Member State, and where such actions are likely to jeopardise the essential functions of a Member State, including

the maintenance of public order and the defence of national security.

Or. pl

Amendment 275
Cecilia Strada

Proposal for a directive
Article 2 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

3 a. 'organized criminal group' means a group as defined in art. 2 of the United Nations Convention against Transnational Organized Crime and the Protocols thereto.

Or. en

Amendment 276
Cecilia Strada

Proposal for a directive
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence where:

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence where ***an organized criminal group carries out the conduct in order to obtain, directly or indirectly, a financial or other material benefit.***

Or. en

Amendment 277

**Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba,
Jadwiga Wiśniewska**

Proposal for a directive

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence where:

Amendment

1. Member States shall ensure that **organising or** intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence where:

Or. pl

Amendment 278

Georgiana Teodorescu

Proposal for a directive

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence where:

Amendment

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence, **including** where:

Or. ro

Amendment 279

Erik Marquardt

Proposal for a directive

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that intentionally ***assisting*** a third-country national to ***enter, or transit across, or stay within*** the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, ***transit and stay*** of third-country nationals constitutes a criminal offence where:

Amendment

1. Member States shall ensure that intentionally ***procuring the entry of*** a third-country national to the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry of third-country nationals constitutes a criminal offence where:

Or. en

Amendment 280
Sebastian Tynkkynen

Proposal for a directive
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence ***where:***

Amendment

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence.

Or. fi

Amendment 281
Nadine Morano

Proposal for a directive
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of

Amendment

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of

the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence *where*:

the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence.

Or. fr

Amendment 282

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, *or stay within* the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit *and stay* of third-country nationals constitutes a criminal offence where:

Amendment

1. Member States shall ensure that intentionally assisting a third-country national to enter, or transit across, the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry *and* transit of third-country nationals constitutes a criminal offence where:

Or. en

Amendment 283

Nadine Morano

Proposal for a directive

Article 3 – paragraph 1 – point a

Text proposed by the Commission

a) *the person who carries out the conduct requests, receives or accepts, directly or indirectly, a financial or material benefit, or a promise thereof, or carries out the conduct in order to obtain such a benefit; or*

Amendment

deleted

Or. fr

Amendment 284

Sebastian Tynkkynen

Proposal for a directive
Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

a) *the person who carries out the conduct requests, receives or accepts, directly or indirectly, a financial or material benefit, or a promise thereof, or carries out the conduct in order to obtain such a benefit; or*

deleted

Or. fi

Amendment 285
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

a) *the person who carries out the conduct requests, receives or accepts, directly or indirectly, a financial or material benefit, or a promise thereof, or carries out the conduct in order to obtain such a benefit; or*

a) *the person who carries out the conduct does so in order to obtain directly a undue financial benefit; and*

Or. en

Amendment 286
Erik Marquardt

Proposal for a directive
Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

a) *the person who carries out the conduct requests, receives or accepts, directly or indirectly, a financial or material benefit, or a promise thereof, or carries out the conduct in order to obtain such a benefit; or*

a) *a person carries out the conduct in order to obtain, directly or indirectly, a financial or other material benefit; and*

Amendment 287

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, Elissavet Vozemberg-Vrionidi, François-Xavier Bellamy

Proposal for a directive

Article 3 – paragraph 1 – point a

Text proposed by the Commission

a) the person who carries out the conduct requests, receives or accepts, directly or indirectly, a financial or material benefit, or a promise thereof, or carries out the conduct in order to obtain such a benefit; or

Amendment

a) the person who carries out the conduct requests, receives or accepts, directly or indirectly, a financial or material benefit, or a promise thereof, or ***uses coercion, deception, or abuse of vulnerability, or*** carries out the conduct in order to obtain such a benefit; or

Or. en

Amendment 288

Georgiana Teodorescu

Proposal for a directive

Article 3 – paragraph 1 – point a

Text proposed by the Commission

a) the person who carries out the conduct requests, receives or accepts, directly or indirectly, a financial or material benefit, or a promise thereof, or carries out the conduct in order to obtain such a benefit; or

Amendment

(a) the person who carries out the conduct requests, receives or accepts, directly or indirectly, ***for themselves or for another person***, a financial or material benefit, or a promise thereof, or carries out the conduct in order to obtain such a benefit; or

Or. ro

Amendment 289

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive
Article 3 – paragraph 1 – point a

Text proposed by the Commission

a) the person who carries out the conduct requests, receives or accepts, directly or indirectly, a financial *or material* benefit, or a promise thereof, or carries out the conduct in order to obtain such a benefit; or

Amendment

(a) the person who carries out the conduct requests, receives or accepts, directly or indirectly, a financial, *material or non-material* benefit, or a promise thereof, or carries out the conduct in order to obtain such a benefit; or

Or. pl

Amendment 290
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 3 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

a a) the offences are transnational in nature and involve an organised criminal group that uses violence or exploitation against migrants;

Or. en

Amendment 291
Sebastian Tynkkynen

Proposal for a directive
Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

b) there is a high likelihood of causing serious harm to a person.

deleted

Or. fi

Amendment 292
Nadine Morano

Proposal for a directive
Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

b) *there is a high likelihood of causing serious harm to a person.* ***deleted***

Or. fr

Amendment 293
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

b) *there is a high likelihood of causing serious harm to a person.* ***deleted***

Or. en

Amendment 294
Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive
Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

b) *there is a high likelihood of causing serious harm to a person.* ***deleted***

Or. en

Justification

Doubtful on how the concept of "high likelihood of causing serious harm" complies with the principle of legal certainty in criminal law.

Amendment 295
Cecilia Strada

Proposal for a directive
Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

b) *there is a high likelihood of causing serious harm to a person.*

deleted

Or. en

Amendment 296
Erik Marquardt

Proposal for a directive
Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

b) *there is a high likelihood of causing serious harm to a person.*

b) *the conduct is transnational in nature and involves an organised criminal group.*

Or. en

Amendment 297
Nadine Morano

Proposal for a directive
Article 3 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) *(c) the assistance provided, including through maritime rescue operations, leads to the transport of migrants to the territory of the Union in coordination or knowingly contributing to the rationale of smuggling organisations and networks.*

Or. fr

Amendment 298

**Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba,
Jadwiga Wiśniewska**

**Proposal for a directive
Article 3 – paragraph 1 – point b a (new)**

Text proposed by the Commission

Amendment

(ba) for other reasons, including political ones, as in the case of instrumentalisation, or ideological reasons.

Or. pl

**Amendment 299
Cecilia Strada**

**Proposal for a directive
Article 3 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1 a. Third-country nationals having been the object of conduct set forth in paragraph 1 shall not become liable to criminal prosecution.

Or. en

**Amendment 300
Cecilia Strada**

**Proposal for a directive
Article 3 – paragraph 1 b (new)**

Text proposed by the Commission

Amendment

1 b. Member States shall ensure that actions undertaken by natural or legal persons with the intention of providing humanitarian assistance are exempted from any criminal liability.

Or. en

Amendment 301
Cecilia Strada

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that publicly instigating third-country nationals to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence. *deleted*

Or. en

Amendment 302
Erik Marquardt

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that publicly instigating third-country nationals to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence. *deleted*

Or. en

Amendment 303
Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that publicly instigating third-country nationals to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence.

deleted

Or. en

Justification

Doubtful on how the concept of "public instigation" complies with the principle of legal certainty in criminal law.

Amendment 304

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that publicly instigating third-country nationals to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence.

2. Criminal offences outlined in paragraph 1 shall not extend to the following activities:

(a) the act of facilitation is directly linked to a person's own irregular entry;

(b) assistance provided to close family members;

(c) humanitarian assistance which includes but is not limited to provision of shelter, food, legal aid and advice, medical care, information and

transportation, monitoring, documenting and reporting human rights abuses, peaceful disobedience and advocacy for policy change;

(d) any actions or service not for profit or without unjust enrichment motive.

Or. en

Amendment 305
Tomáš Zdechovský

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that publicly instigating third-country nationals to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence.

Amendment

2. Member States shall ensure that publicly instigating third-country nationals to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence, ***provided that such instigation is carried out for financial or material benefit or with the intent to facilitate criminal networks.***

Or. en

Amendment 306
François-Xavier Bellamy

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that publicly ***instigating*** third-country nationals to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals

Amendment

2. Member States shall ensure that ***instigating***, publicly ***or not***, third-country nationals to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals

constitutes a criminal offence.

constitutes a criminal offence.

Or. fr

Amendment 307

Nadine Morano

Proposal for a directive

Article 3 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that **publicly** instigating third-country nationals to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence.

Amendment

2. Member States shall ensure that instigating third-country nationals to enter, or transit across, or stay within the territory of any Member State in breach of relevant Union law or the laws of the Member State concerned on the entry, transit and stay of third-country nationals constitutes a criminal offence.

Or. fr

Amendment 308

Nadine Morano

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In order to ensure the effective application of criminal law provisions aimed at combating illegal immigration facilitated by organised networks, it is necessary to take account of all forms that such assistance may take, including those carried out under the guise of humanitarian action. Where assistance to third country nationals, including through search and rescue operations at sea, results in repeated disembarkation in European ports, outside any institutional cooperation framework with the competent authorities, and it is established that such assistance is part of

a coordinated approach or knowingly contributes to the rationale of smuggling networks, Member States must be able to hold the natural or legal persons involved criminally liable. This approach aims to avoid any instrumentalisation of humanitarian actions for the purpose of circumventing Union or national legislation on entry, transit and stay.

Or. fr

Amendment 309

Erik Marquardt

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Notwithstanding paragraph 1, Member States shall ensure that the following acts do not constitute a criminal offence and will not give rise to criminal or administrative liability of natural or legal persons carrying out the conduct:

a) assisting third country nationals to enter or stay in the territory of a Member State for humanitarian or selfless reasons, to provide humanitarian assistance or to fulfil other obligations deriving from international law, including carrying out search and rescue activities, providing health care, medical assistance, legal assistance and counselling, and other basic needs such as food, shelter and clothing;

b) assisting a family member or a close relative, including to enter and stay in the territory of a Member State;

c) the act of entry in and of itself by a third country national.

Or. en

Amendment 310

**Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba,
Jadwiga Wiśniewska**

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that third-country nationals who, acting knowingly and independently, illegally cross the external borders of the EU, illegally travel or illegally remain on EU territory are held criminally liable. A qualified form of the offence shall be deemed to have been committed where a third-country national crosses the border illegally at a place not designated for that purpose or by force, where the victim of their action is a public official of a Member State, or where they deliberately damage border infrastructure or defences.

Or. pl

Amendment 311

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Member States shall ensure that any natural or legal person cannot facilitate unauthorised entry, transit or stay in the Union under a false pretence of 'humanitarian assistance'.

Or. en

Amendment 312

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Third country nationals shall not become liable under this Article for the sole fact of having been the object of the conduct set forth in paragraph 1.

Or. en

Amendment 313
Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Humanitarian assistance shall not constitute a criminal offence.

Or. en

Amendment 314
Nadine Morano

Proposal for a directive
Article 3 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. This provision is without prejudice to the obligations arising from international maritime law, in particular the International Convention for the Safety of Life at Sea (SOLAS), the International Convention on Maritime Search and Rescue (SAR), and the United Nations Convention on the Law of the Sea (UNCLOS), which impose an obligation on vessels to assist persons in distress at sea and to bring them to a place of safety. However, the concept of safe port must

not be misused to justify systematic disembarkations in European ports, where they circumvent the procedures established by the competent authorities or promote, directly or indirectly, the criminal activities of smuggling networks.

Or. fr

Amendment 315

Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive

Article 3 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. Assistance among family members shall not constitute a criminal offence.

Or. en

Justification

It is necessary to exclude the assistance to family members from the scope of criminalisation to protect migrants' families.

Amendment 316

Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva

Proposal for a directive

Article 4

Text proposed by the Commission

Amendment

Article 4

deleted

Aggravated criminal offences

Member States shall ensure that the conduct referred to in Article 3 constitutes an aggravated criminal offence where:

(a) the criminal offence was committed within the framework of a criminal organisation within the meaning of Council Framework Decision

2008/841/JHA²⁰ ;

(b) the criminal offence deliberately or by gross negligence caused serious harm to, or endangered the life of, the third-country nationals who were subject to the criminal offence;

(c) the criminal offence was committed by use of serious violence;

(d) the third-country nationals who were subject to the criminal offence were particularly vulnerable, including unaccompanied minors;

(e) the criminal offence caused the death of third-country nationals who were subject to the criminal offence.

²⁰ *Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42, ELI: http://data.europa.eu/eli/dec_framw/2008/841/oj).*

Or. en

Justification

It made more sense in terms of EU criminal law to cover those offences in an amendment below linked to article 3

Amendment 317

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 4

Text proposed by the Commission

Amendment

Article 4

deleted

Aggravated criminal offences

Member States shall ensure that the conduct referred to in Article 3 constitutes an aggravated criminal offence where:

(a) the criminal offence was committed

within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA²⁰ ;

(b) the criminal offence deliberately or by gross negligence caused serious harm to, or endangered the life of, the third-country nationals who were subject to the criminal offence;

(c) the criminal offence was committed by use of serious violence;

(d) the third-country nationals who were subject to the criminal offence were particularly vulnerable, including unaccompanied minors;

(e) the criminal offence caused the death of third-country nationals who were subject to the criminal offence.

²⁰ *Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42, ELI: http://data.europa.eu/eli/dec_framw/2008/841/oj).*

Or. en

Amendment 318
Erik Marquardt

Proposal for a directive
Article 4

Text proposed by the Commission

Amendment

Article 4

deleted

Aggravated criminal offences

Member States shall ensure that the conduct referred to in Article 3 constitutes an aggravated criminal offence where:

(a) the criminal offence was committed within the framework of a criminal organisation within the meaning of

**Council Framework Decision
2008/841/JHA²⁰ ;**

(b) the criminal offence deliberately or by gross negligence caused serious harm to, or endangered the life of, the third-country nationals who were subject to the criminal offence;

(c) the criminal offence was committed by use of serious violence;

(d) the third-country nationals who were subject to the criminal offence were particularly vulnerable, including unaccompanied minors;

(e) the criminal offence caused the death of third-country nationals who were subject to the criminal offence.

²⁰ **Council Framework Decision
2008/841/JHA of 24 October 2008 on the
fight against organised crime (OJ L 300,
11.11.2008, p. 42, ELI:
[http://data.europa.eu/eli/dec_framw/2008/
841/oj](http://data.europa.eu/eli/dec_framw/2008/841/oj)).**

Or. en

**Amendment 319
Sebastian Tynkkynen**

**Proposal for a directive
Article 4 – paragraph 1 – point b**

Text proposed by the Commission

(b) the criminal offence deliberately or by gross negligence caused serious harm to, or endangered the life of, the third-country nationals who were subject to the criminal offence;

Amendment

(b) the criminal offence deliberately or by gross negligence caused serious harm to, or endangered the life of, ***nationals of any Member State or*** the third-country nationals who were subject to the criminal offence;

Or. fi

Amendment 320

Mary Khan

Proposal for a directive

Article 4 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) the criminal offence caused serious harm to, or endangered the life of, legally present persons who were victims of serious crimes committed by third-country nationals who were subject to the criminal offence;

Or. en

Justification

A significant number of serious crimes including violence, rape, murder and terrorism are committed by illegally present third-country nationals in the EU on our citizens. Such factors should be considered as aggravated criminal offences for those who facilitate the illegal entry of third country nationals who go on to commit serious crimes.

Amendment 321

Georgiana Teodorescu

Proposal for a directive

Article 4 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the criminal offence was committed by use of serious violence;

(c) the criminal offence was committed by use of serious violence ***or endangered human life or health;***

Or. ro

Amendment 322

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 4 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) caused the death or bodily injury of citizens of Member States, including public officials, whether as a result of the instrumentalisation of migration or not;

Or. pl

Amendment 323
Georgiana Teodorescu

Proposal for a directive
Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(f) the criminal offence was committed by people involved in drugs trafficking offences;

Or. ro

Amendment 324
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 5

Text proposed by the Commission

Amendment

Article 5

deleted

Incitement, aiding and abetting, and attempt

Member States shall ensure that inciting, aiding and abetting and attempting to commit any of the criminal offences referred to in Article 3(1) and Article 4 are punishable as criminal offences.

Or. en

Amendment 325
Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze,

François-Xavier Bellamy

Proposal for a directive

Article 5 – title

Text proposed by the Commission

Incitement, aiding and abetting, and attempt

Amendment

Inciting, aiding and abetting, and attempt

Or. en

Amendment 326

François-Xavier Bellamy

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

Member States shall ensure that inciting, aiding and abetting and attempting to commit any of the criminal offences referred to in Article 3(1) and Article 4 are punishable as criminal offences.

Amendment

1. Member States shall ensure that inciting, aiding and abetting and attempting to commit any of the criminal offences referred to in Article 3(1) and Article 4 are punishable as criminal offences.

Or. fr

Amendment 327

Erik Marquardt

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

Member States shall ensure that inciting, aiding and abetting and attempting to commit any of the criminal offences referred to in Article 3(1) **and Article 4** are punishable as criminal offences.

Amendment

Member States shall ensure that inciting, aiding and abetting and attempting to commit any of the criminal offences referred to in Article 3(1) are punishable as criminal offences.

Or. en

Amendment 328
François-Xavier Bellamy

Proposal for a directive
Article 5 – paragraph 1 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

2. Providing material or logistical support, for part or all of the journey of irregular migrants, or contacting smuggling networks, including criminal organisations and any natural or legal person involved in facilitating unauthorised entry, transit and stay, in any form, to organise or facilitate irregular migration, shall constitute complicity within the meaning of Article 5(1) and be shall be subject to sanctions as a criminal offence.

Or. fr

Amendment 329
Erik Marquardt

Proposal for a directive
Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall take the necessary measures to ensure that the criminal offences referred to in Articles 3, 4 and 5 are punishable by effective, proportionate and dissuasive criminal penalties.

1. Member States shall take the necessary measures to ensure that the criminal offences referred to in Articles **3(1)** and 5 are punishable by effective, proportionate and dissuasive criminal penalties.

Or. en

Amendment 330
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 6 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that the criminal **offences** referred to in Articles 3, **4 and 5** are punishable by effective, proportionate and dissuasive criminal penalties.

Amendment

1. Member States shall take the necessary measures to ensure that the criminal **offence** referred to in Articles 3 **is** punishable by effective, proportionate and dissuasive criminal penalties.

Or. en

Amendment 331
Erik Marquardt

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least **three** years.

Amendment

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article **3(1)** are punishable by a maximum term of imprisonment of at least **two** years.

Or. en

Amendment 332
Georgiana Teodorescu

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least **three** years.

Amendment

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least **five** years.

Or. ro

Amendment 333

**Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba,
Jadwiga Wiśniewska**

**Proposal for a directive
Article 6 – paragraph 2**

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least **three** years.

Amendment

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least **five** years.

Or. pl

**Amendment 334
Sebastian Tynkkynen**

**Proposal for a directive
Article 6 – paragraph 2**

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least **three** years.

Amendment

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least **five** years.

Or. fi

**Amendment 335
Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský,
Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze,
François-Xavier Bellamy**

**Proposal for a directive
Article 6 – paragraph 2**

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of

Amendment

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of

imprisonment of at least *three* years.

imprisonment of at least *five* years.

Or. en

Amendment 336

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least *three* years.

Amendment

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least *five* years.

Or. en

Amendment 337

François-Xavier Bellamy

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least *three* years.

Amendment

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least *five* years.

Or. fr

Amendment 338

Nadine Morano

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least **three** years.

Amendment

2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least **ten** years.

Or. fr

Amendment 339

Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

**Proposal for a directive
Article 6 – paragraph 2**

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the criminal **offences** referred to in Article 3 **are** punishable by a maximum term of imprisonment of at least three years.

Amendment

2. Member States shall take the necessary measures to ensure that the criminal **offence** referred to in Article 3 **is** punishable by a maximum term of imprisonment of at least three years.

Or. en

Justification

A threshold of at least three years for the maximum penalty should be maintained, in order to combat smuggling networks effectively.

Amendment 340

Ilaria Salis, Damien Carême, Estrella Galán

**Proposal for a directive
Article 6 – paragraph 2**

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that the criminal **offences** referred to in Article 3 **are** punishable by a maximum term of imprisonment of at least **three** years.

Amendment

2. Member States shall take the necessary measures to ensure that the criminal **offence** referred to in Article 3 **is** punishable by a maximum term of imprisonment of at least **two** years.

Amendment 341

Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive**Article 6 – paragraph 3***Text proposed by the Commission*

3. Member States shall take the necessary measures to ensure that the criminal **offences** referred to in Article 4, **points (a) to (d) are** punishable by a maximum term of imprisonment of at least **ten** years.

Amendment

3. Member States shall take the necessary measures to ensure that the criminal **offence** referred to in Article 3(1) **is** punishable by a maximum term of imprisonment of at least **eight** years **where:**

- (a) the criminal offence deliberately or by gross negligence caused serious harm to or endangered the life of the third-country nationals who were the object of the criminal offence; or**
- (b) the criminal offence was committed by the use of serious violence against the third country nationals who were the object of the criminal offence; or**
- (c) the third-country nationals who were the object of the criminal offence were vulnerable persons, such as unaccompanied minors.**
- (d) the criminal offence caused the death of third-country nationals who were subject to the criminal offence.**

Or. en

Justification

We agree with the rapporteur on the need to bring the penalty for aggravated offences into line with more appropriate proportions.

However, A sentence of at least eight years' imprisonment is required for offences aggravated by these three particularly serious aggravating circumstances. A lower threshold would be less onerous than the current eight-year limit for offences that endanger the lives of third-country nationals, for example.

Amendment 342

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Member States shall take the necessary measures to ensure that the criminal *offences* referred to in Article 4, *points (a) to (d) are* punishable by a maximum term of imprisonment of at least *ten* years.

Amendment

3. Member States shall take the necessary measures to ensure that the criminal *offence* referred to in Article 3 *is* punishable by a maximum term of imprisonment of at least *five* years, *where the criminal offence was committed by the use of serious violence against the third country nationals who were the object of the criminal offence.*

Or. en

Amendment 343
Erik Marquardt

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, *points (a) to (d) are* punishable by a maximum term of imprisonment of at least *ten* years.

Amendment

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(1) are punishable by a maximum term of imprisonment of at least *five* years *if they cause serious harm to any person who was subject to the criminal offence.*

Or. en

Amendment 344

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, points (a) to (d) are punishable by a maximum term of imprisonment of at least **ten** years.

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, points (a) to (d) are punishable by a maximum term of imprisonment of at least **fifteen** years.

Or. en

Amendment 345

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive Article 6 – paragraph 3

Text proposed by the Commission

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, points (a) to (d) are punishable by a maximum term of imprisonment of at least **ten** years.

Amendment

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, points (a) to (d) are punishable by a maximum term of imprisonment of at least **fifteen** years.

Or. en

Amendment 346

Nadine Morano

Proposal for a directive Article 6 – paragraph 3

Text proposed by the Commission

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, points (a) to (d) are punishable by a maximum term of imprisonment of at least **ten** years.

Amendment

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, points (a) to (d) are punishable by a maximum term of imprisonment of at least **fifteen** years.

Or. fr

Amendment 347
François-Xavier Bellamy

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, points (a) to (d) are punishable by a maximum term of imprisonment of at least **ten** years.

Amendment

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, points (a) to (d) are punishable by a maximum term of imprisonment of at least **fifteen** years.

Or. fr

Amendment 348
Sebastian Tynkkynen

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, points (a) to (d) are punishable by a maximum term of imprisonment of at least **ten** years.

Amendment

3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4, points (a) to (d) are punishable by a maximum term of imprisonment of at least **12** years.

Or. fi

Amendment 349
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission

4. **Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4 point (e), including attempts to commit the**

Amendment

deleted

criminal offence referred to in that provision, are punishable by a maximum term of imprisonment of at least fifteen years.

Or. en

Amendment 350

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive Article 6 – paragraph 4

Text proposed by the Commission

4. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4 point (e), including attempts to commit the criminal offence referred to in that provision, are punishable by a maximum term of imprisonment of at least *fifteen* years.

Amendment

4. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4 point (e), including attempts to commit the criminal offence referred to in that provision, are punishable by a maximum term of imprisonment of at least *twenty* years.

Or. en

Amendment 351

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive Article 6 – paragraph 4

Text proposed by the Commission

4. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4 point (e), including attempts to commit the criminal offence referred to in that provision, are punishable by a maximum term of imprisonment of at least *fifteen* years.

Amendment

4. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4 point (e), including attempts to commit the criminal offence referred to in that provision, are punishable by a maximum term of imprisonment of at least *twenty* years.

Amendment 352
François-Xavier Bellamy

Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission

4. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4 point (e), including attempts to commit the criminal offence referred to in that provision, are punishable by a maximum term of imprisonment of at least **fifteen** years.

Amendment

4. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4 point (e), including attempts to commit the criminal offence referred to in that provision, are punishable by a maximum term of imprisonment of at least **twenty** years.

Or. fr

Amendment 353
Nadine Morano

Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission

4. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4 point (e), including attempts to commit the criminal offence referred to in that provision, are punishable by a maximum term of imprisonment of at least **fifteen** years.

Amendment

4. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4 point (e), including attempts to commit the criminal offence referred to in that provision, are punishable by a maximum term of imprisonment of at least **twenty** years.

Or. fr

Amendment 354
Erik Marquardt

Proposal for a directive

Article 6 – paragraph 4

Text proposed by the Commission

4. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 4 **point (e), including attempts to commit the criminal offence referred to in that provision**, are punishable by a maximum term of imprisonment of at least **fifteen** years.

Amendment

4. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article **3(1)** are punishable by a maximum term of imprisonment of at least **ten** years **if they cause the death of any person who was subject to the criminal offence**.

Or. en

Amendment 355

Erik Marquardt

Proposal for a directive

Article 6 – paragraph 5 – introductory part

Text proposed by the Commission

5. **In addition to criminal penalties imposed in accordance with paragraphs 1 to 4**, Member States shall take the necessary measures to ensure that natural persons **that have been convicted of committing one of the criminal** offences referred to in Articles 3, 4 and 5 may be subject to criminal or non-criminal sanctions or measures **imposed by a competent authority**, including:

Amendment

5. Member States shall take the necessary measures to ensure that natural persons **who have committed the** offences referred to in Articles **3(1)** and 5 may be subject to **additional** criminal or non-criminal sanctions or measures, including:

Or. en

Amendment 356

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 6 – paragraph 5 – introductory part

Text proposed by the Commission

5. In addition to criminal penalties imposed in accordance with paragraphs 1

Amendment

5. In addition to criminal penalties imposed in accordance with paragraphs 1

to 4, Member States shall take the necessary measures to ensure that natural persons that have *been convicted of committing one of the criminal offences* referred to in *Articles 3, 4 and 5* may be subject to criminal or non-criminal *sanctions* or measures *imposed by a competent authority, including:*

to 3, Member States shall take the necessary measures to ensure that natural persons that have *committed* the criminal *offence* referred to in *Article 3* may be subject to criminal or non-criminal *penalties* or measures *which include:*

Or. en

Amendment 357

François-Xavier Bellamy

Proposal for a directive

Article 6 – paragraph 5 – introductory part

Text proposed by the Commission

5. In addition to criminal penalties imposed in accordance with paragraphs 1 to 4, Member States shall take the necessary measures to ensure that natural persons that have been convicted of committing one of the criminal offences referred to in Articles 3, 4 and 5 may be subject to criminal or non-criminal sanctions or measures imposed by a competent authority, including:

Amendment

5. In addition to criminal penalties imposed in accordance with paragraphs 1 to 4, Member States shall take the necessary measures to ensure that natural persons that have been convicted of committing one of the criminal offences referred to in Articles 3, 4 and 5 may be subject to *sufficiently dissuasive* criminal *sanctions or measures*, or non-criminal sanctions or measures, imposed by a competent authority including:

Or. fr

Amendment 358

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 6 – paragraph 5 – introductory part

Text proposed by the Commission

5. In addition to criminal penalties imposed in accordance with paragraphs 1 to 4, Member States shall take the necessary measures to ensure that natural

Amendment

5. In addition to criminal penalties imposed in accordance with paragraphs 1 to 4, Member States shall take the necessary measures to ensure that natural

persons that have been convicted of committing one of the criminal offences referred to in Articles 3, 4 and 5 **may** be subject to criminal or non-criminal sanctions or measures imposed by a competent authority, including:

persons that have been convicted of committing one of the criminal offences referred to in Articles 3, 4 and 5 **must** be subject to criminal or non-criminal sanctions or measures imposed by a competent authority, including:

Or. pl

Amendment 359
Georgiana Teodorescu

Proposal for a directive
Article 6 – paragraph 5 – introductory part

Text proposed by the Commission

5. In addition to criminal penalties imposed in accordance with paragraphs 1 to 4, Member States shall take the necessary measures to ensure that natural persons that have been convicted of committing one of the criminal offences referred to in Articles 3, 4 and 5 **may** be subject to criminal or non-criminal sanctions or measures imposed by a competent authority, including:

Amendment

5. In addition to criminal penalties imposed in accordance with paragraphs 1 to 4, Member States shall take the necessary measures to ensure that natural persons that have been convicted of committing one of the criminal offences referred to in Articles 3, 4 and 5 **shall** be subject to criminal or non-criminal sanctions or measures imposed by a competent authority, including:

Or. ro

Amendment 360
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 6 – paragraph 5 – point a

Text proposed by the Commission

(a) *withdrawal of permits or authorisations to pursue activities which have resulted in committing the criminal offence, or prohibition on practising directly or through an intermediary the occupational activity in the exercise of which the criminal offence was committed;*

Amendment

deleted

Amendment 361

Erik Marquardt

Proposal for a directive

Article 6 – paragraph 5 – point a

Text proposed by the Commission

(a) withdrawal of permits or authorisations to pursue activities which have resulted in committing the criminal offence, ***or prohibition on practising directly or through an intermediary the occupational activity in the exercise of which the criminal offence was committed;***

Amendment

(a) withdrawal of permits or authorisations to pursue activities which have resulted in committing the criminal offence;

Or. en

Amendment 362

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Article 6 – paragraph 5 – point a

Text proposed by the Commission

(a) withdrawal of permits or authorisations to pursue activities which have resulted in committing the criminal offence, or prohibition on practising directly or through an intermediary the occupational activity in the exercise of which the criminal offence was committed;

Amendment

(a) ***permanent*** withdrawal of permits or authorisations to pursue activities which have resulted in committing the criminal offence, or prohibition on practising directly or through an intermediary the occupational activity in the exercise of which the criminal offence was committed;

Or. en

Amendment 363

Iliaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 6 – paragraph 5 – point b

Text proposed by the Commission

Amendment

(b) return after the enforcement of the penalty in a Member State, or to serve the penalty imposed, or part of it, in the third country of return, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;

deleted

Or. en

Amendment 364

Erik Marquardt

Proposal for a directive

Article 6 – paragraph 5 – point b

Text proposed by the Commission

Amendment

(b) return after the enforcement of the penalty in a Member State, or to serve the penalty imposed, or part of it, in the third country of return, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;

deleted

Or. en

Amendment 365

Milan Uhrík

Proposal for a directive

Article 6 – paragraph 5 – point b

Text proposed by the Commission

Amendment

(b) return after the enforcement of the penalty in a Member State, or to serve the penalty imposed, or part of it, in the third country of return, without prejudice to more favourable provisions that may be applicable by virtue of Union or national

(b) upon completion of a custodial sentence imposed in a Member State, the Member State shall be obliged to ensure the expulsion of the third-country national to the territory of the third country of return without the possibility of

law;

granting a derogation on the basis of more favourable provisions of Union or national law; the return shall be carried out immediately after the sentence has been served;

Or. sk

Amendment 366

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 6 – paragraph 5 – point c

Text proposed by the Commission

Amendment

(c) prohibition to enter and stay on the territory of the Member States for an appropriate period of maximum 10 years, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;

deleted

Or. en

Amendment 367

Erik Marquardt

Proposal for a directive

Article 6 – paragraph 5 – point c

Text proposed by the Commission

Amendment

(c) prohibition to enter and stay on the territory of the Member States for an appropriate period of maximum 10 years, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;

deleted

Or. en

Amendment 368

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský,

Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

**Proposal for a directive
Article 6 – paragraph 5 – point c**

Text proposed by the Commission

(c) prohibition to enter and stay on the territory of the Member States ***for an appropriate period of maximum 10 years, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;***

Amendment

(c) prohibition to enter and stay on the territory of the Member States;

Or. en

**Amendment 369
Milan Uhrík**

**Proposal for a directive
Article 6 – paragraph 5 – point c**

Text proposed by the Commission

(c) ***prohibition to enter and stay on*** the territory of ***the*** Member States ***for an appropriate period of maximum 10 years,*** without ***prejudice to more favourable provisions that may be applicable by virtue*** of Union or national law;

Amendment

(c) ***a third-country national who has been expelled from*** the territory of ***a Member State after serving a custodial sentence, shall be issued with a lifetime prohibition on entering all Member States and a lifetime prohibition on staying on the territory of all Member States,*** without ***the possibility of its revocation or mitigation by virtue of more favourable provisions*** of Union or national law;

Or. sk

**Amendment 370
Georgiana Teodorescu**

**Proposal for a directive
Article 6 – paragraph 5 – point c**

Text proposed by the Commission

Amendment

(c) prohibition to enter and stay on the territory of the Member States for ***an appropriate*** period of maximum ***10*** years, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;

(c) prohibition to enter and stay on the territory of the Member States for ***a*** period of ***at least 5 years and a maximum of 20*** years, ***depending on the seriousness of the case***, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;

Or. ro

Amendment 371
Nadine Morano

Proposal for a directive
Article 6 – paragraph 5 – point c

Text proposed by the Commission

(c) prohibition to enter and stay on the territory of the Member States for an appropriate period of maximum ***10*** years, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;

Amendment

(c) prohibition to enter and stay on the territory of the Member States for an appropriate period of maximum ***20*** years, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;

Or. fr

Amendment 372
Sebastian Tynkkynen

Proposal for a directive
Article 6 – paragraph 5 – point c

Text proposed by the Commission

(c) prohibition to enter and stay on the territory of the Member States for an appropriate period of maximum ***10*** years, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;

Amendment

(c) prohibition to enter and stay on the territory of the Member States for an appropriate period of maximum ***20*** years, without prejudice to more favourable provisions that may be applicable by virtue of Union or national law;

Or. fi

Amendment 373

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Article 6 – paragraph 5 – point c

Text proposed by the Commission

(c) prohibition to enter and stay on the territory of the Member States for an appropriate period of **maximum** 10 years, without prejudice to **more** favourable provisions that may be applicable by virtue of Union or national law;

Amendment

(c) prohibition to enter and stay on the territory of the Member States for an appropriate period of **minimum** 10 years, without prejudice to **less** favourable provisions that may be applicable by virtue of Union or national law;

Or. en

Amendment 374

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 6 – paragraph 5 – point c

Text proposed by the Commission

(c) prohibition to enter and stay on the territory of the Member States for an appropriate period of **maximum 10** years, without prejudice to **more favourable** provisions that may be applicable by virtue of Union or national law;

Amendment

(c) prohibition to enter and stay on the territory of the Member States for an appropriate period of **at least five** years, without prejudice to **stricter** provisions that may be applicable by virtue of Union or national law;

Or. pl

Amendment 375

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 6 – paragraph 5 – point d

Text proposed by the Commission

(d) **exclusions from access to public funding, including tender procedures,**

Amendment

deleted

grants and concessions;

Or. en

Amendment 376

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Article 6 – paragraph 5 – point d

Text proposed by the Commission

(d) exclusions from access to public funding, including tender procedures, grants **and** concessions;

Amendment

(d) **permanent** exclusions from access to public funding, including tender procedures, grants, concessions **and licenses**;

Or. en

Amendment 377

Erik Marquardt

Proposal for a directive

Article 6 – paragraph 5 – point d

Text proposed by the Commission

(d) exclusions from access to public funding, including tender procedures, grants and concessions;

Amendment

(d) exclusions from access to public funding, including tender procedures, grants and concessions **and licenses**;

Or. en

Amendment 378

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 6 – paragraph 5 – point e

Text proposed by the Commission

(e) fines;

Amendment

(e) fines; **that are proportionate to the gravity of the conduct and to the**

individual, financial and other circumstances of the natural person concerned and, where relevant, that are determined taking due account of the gravity and duration of the damage caused;

Or. en

Amendment 379
Erik Marquardt

Proposal for a directive
Article 6 – paragraph 5 – point e

Text proposed by the Commission

(e) fines;

Amendment

(e) fines *that are proportionate to the gravity of the conduct, the seriousness of the damage caused, and to the individual, financial and other circumstances of the person concerned;*

Or. en

Amendment 380
Erik Marquardt

Proposal for a directive
Article 6 – paragraph 5 – point f

Text proposed by the Commission

(f) *freezing and confiscation of the proceeds derived from, and instrumentalities used for, the commission of the offence, in accordance with Directive 2014/42/EU of the European Parliament and of the Council²¹.*

Amendment

deleted

²¹ *Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127,*

29.4.2014, p. 39 ELI:
<http://data.europa.eu/eli/dir/2014/42/oj>).

Or. en

Amendment 381

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 6 – paragraph 5 – point f

Text proposed by the Commission

Amendment

(f) freezing and confiscation of the proceeds derived from, and instrumentalities used for, the commission of the offence, in accordance with Directive 2014/42/EU of the European Parliament and of the Council²¹.

deleted

²¹ *Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39 ELI:
<http://data.europa.eu/eli/dir/2014/42/oj>).*

Or. en

Amendment 382

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 6 – paragraph 5 – point f a (new)

Text proposed by the Commission

Amendment

(fa) liability for damages in favour of the Member State and jurisdiction to rule on compensation, in particular for the affected public officials of the Member State;

Amendment 383

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 6 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Notwithstanding the provision listed in point (c) of this Article, Member States shall impose mandatory asset confiscation and a lifetime ban from entry into the Union on convicted third-country nationals involved in aggravated offences listed in Article 4.

Or. en

Amendment 384

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 7

Text proposed by the Commission

Amendment

Article 7

deleted

Liability of legal persons

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for the criminal offences referred to in Articles 3, 4 and 5 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

(a) a power of representation of the legal person;

(b) an authority to take decisions on

behalf of the legal person;

(c) an authority to exercise control within the legal person.

2. Member States shall also take the necessary measures to ensure that a legal person can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of the criminal offences referred to in Articles 3, 4 and 5 for the benefit of that legal person by a person under its authority.

3. Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators of, inciters of, or accessories in the criminal offences referred to in Articles 3, 4 and 5.

Or. en

Amendment 385

Mariusz Kamiński, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for the criminal offences referred to in Articles 3, 4 and 5 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

Amendment

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for the criminal offences referred to in Articles 3, 4 and 5 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, ***of a person who is not a member of an organ of the legal person but is acting in its name or on its behalf, or acting on the instructions of the legal person*** or who has a leading position within the legal person, based on:

Or. pl

Amendment 386

François-Xavier Bellamy

Proposal for a directive

Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for the criminal offences referred to in Articles 3, 4 and 5 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

Amendment

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for the criminal offences referred to in Articles 3, 4 and 5 committed for their benefit by any person, acting either individually or as part of an organ of the legal person ***or in accordance with its directives or*** who has a leading position within the legal person, based on:

Or. fr

Amendment 387

Erik Marquardt

Proposal for a directive

Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for the criminal offences referred to in Articles 3, 4 and 5 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

Amendment

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for the criminal offences referred to in Articles ***3(1)*** and 5 committed for their ***financial or other material*** benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

Or. en

Amendment 388

Erik Marquardt

Proposal for a directive

Article 7 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall also take the necessary measures to ensure that a legal person can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of the criminal offences referred to in Articles 3, 4 and 5 for the benefit of that legal person by a person under its authority.

deleted

Or. en

Amendment 389

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. For breaches of paragraphs 1 and 2 through act or omission, a legal person shall be liable for damages to the Member State. The liability of the legal person for breaches of paragraphs 1 and 2 shall also include claims for compensation.

Or. pl

Amendment 390

Erik Marquardt

Proposal for a directive

Article 7 – paragraph 3

Text proposed by the Commission

Amendment

3. Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators of, inciters of, or accessories in the criminal offences referred to in Articles 3, 4 and 5.

3. Liability of a legal person under paragraph 1 shall not exclude criminal proceedings against natural persons who are perpetrators of, inciters of, or accessories in the criminal offences referred to in Articles 3(1) and 5.

Amendment 391

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 8

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 392

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 8 – title

Text proposed by the Commission

Amendment

Sanctions for legal persons

Sanctions *and measures* for legal persons

Or. en

Amendment 393

Nicolas Bay, Laurence Trochu, Marion Maréchal, Guillaume Peltier

Proposal for a directive

Article 8 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons liable pursuant to Article 7 for the criminal offences referred to in Articles 3, 4 and 5 may include:

2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons, *including associations and NGOs*, liable pursuant to Article 7 for the criminal offences referred to in Articles 3, 4 and 5 may include:

Amendment 394
Erik Marquardt

Proposal for a directive
Article 8 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons liable pursuant to Article 7 for the criminal offences referred to in Articles 3, 4 and 5 may include:

Amendment

2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons liable pursuant to Article 7 for the criminal offences referred to in Articles 3(1) and 5 may include:

Or. en

Amendment 395
Georgiana Teodorescu

Proposal for a directive
Article 8 – paragraph 2 – introductory part

Text proposed by the Commission

(2) Member States shall take the necessary measures to ensure that sanctions or measures for legal persons liable pursuant to Article 7 for the criminal offences referred to in Articles 3, 4 and 5 *may* include:

Amendment

(2) Member States shall take the necessary measures to ensure that sanctions or measures for legal persons liable pursuant to Article 7 for the criminal offences referred to in Articles 3, 4 and 5 *shall* include:

Or. ro

Amendment 396
François-Xavier Bellamy

Proposal for a directive
Article 8 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) criminal or non-criminal fines;

(a) **sufficiently dissuasive** criminal or non-criminal fines;

Or. fr

Amendment 397

Georgiana Teodorescu

Proposal for a directive

Article 8 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) exclusion from entitlement to public benefits, aid or subsidies;

(b) exclusion from entitlement to public benefits, aid or subsidies, **and to European Union support of any kind**;

Or. ro

Amendment 398

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Article 8 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) exclusion from entitlement to public benefits, aid or subsidies;

(b) **permanent** exclusion from entitlement to public benefits, aid or subsidies;

Or. en

Amendment 399

Georgiana Teodorescu

Proposal for a directive

Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) **temporary or** permanent exclusion from access to public funding, including

(c) permanent exclusion from access to public funding, including tender

tender procedures, grants and concessions;

procedures, grants and concessions, **and from European Union financial support**;

Or. ro

Amendment 400

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) **temporary or permanent** exclusion from access to public funding, including tender procedures, grants and concessions;

(c) exclusion from access to public funding, including tender procedures, grants and concessions;

Or. en

Amendment 401

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) **temporary or permanent** exclusion from access to public funding, including tender procedures, grants and concessions;

(c) permanent exclusion from access to public funding, including tender procedures, grants and concessions;

Or. en

Amendment 402

Mary Khan

Proposal for a directive

Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) **temporary or** permanent exclusion from access to public funding, including tender procedures, grants and concessions;

(c) permanent exclusion from access to public funding, including tender procedures, grants and concessions;

Or. en

Amendment 403

Milan Uhrík

Proposal for a directive

Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) **temporary or** permanent exclusion from access to public funding, including tender procedures, grants and concessions;

(c) permanent exclusion from access to public funding, including tender procedures, grants and concessions;

Or. sk

Amendment 404

Mary Khan

Proposal for a directive

Article 8 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) **temporary or** permanent disqualification from the practice of commercial activities;

(d) permanent disqualification from the practice of commercial activities;

Or. en

Amendment 405

Milan Uhrík

Proposal for a directive

Article 8 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) **temporary or** permanent disqualification from the practice of

(d) permanent disqualification from the practice of commercial activities;

commercial activities;

Or. sk

Amendment 406

Nadine Morano

Proposal for a directive

Article 8 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) judicial winding-up;

(f) **administrative or** judicial winding-up;

Or. fr

Amendment 407

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 8 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) **temporary or permanent** closure of establishments which have been used for committing the criminal offence;

(g) closure of establishments which have been used for committing the criminal offence;

Or. en

Amendment 408

Mary Khan

Proposal for a directive

Article 8 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) **temporary or** permanent closure of establishments which have been used for committing the criminal offence;

(g) permanent closure of establishments which have been used for committing the criminal offence;

Amendment 409

Milan Uhrík

Proposal for a directive

Article 8 – paragraph 2 – point g

Text proposed by the Commission

(g) **temporary or** permanent closure of establishments which have been used for committing the **criminal** offence;

Amendment

(g) permanent closure of establishments which have been used for committing the offence.

Or. sk

Amendment 410

Georgiana Teodorescu

Proposal for a directive

Article 8 – paragraph 2 – point g

Text proposed by the Commission

(g) **temporary or** permanent closure of establishments which have been used for committing the criminal offence;

Amendment

(g) permanent closure of establishments which have been used for committing the criminal offence;

Or. ro

Amendment 411

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Article 8 – paragraph 2 – point h

Text proposed by the Commission

(h) withdrawal of permits and authorisations to pursue activities which have resulted in committing the criminal offence;

Amendment

(h) **permanent** withdrawal of permits and authorisations to pursue activities which have resulted in committing the criminal offence;

Amendment 412

Milan Uhrík

Proposal for a directive

Article 8 – paragraph 2 – point h

Text proposed by the Commission

(h) withdrawal of permits and authorisations to pursue activities which have resulted in committing the criminal offence;

Amendment

(h) **permanent** withdrawal of permits and authorisations to pursue activities which have resulted in committing the criminal offence;

Or. sk

Amendment 413

Erik Marquardt

Proposal for a directive

Article 8 – paragraph 2 – point i

Text proposed by the Commission

(i) **freezing and confiscation of the proceeds derived from, and instrumentalities used for, the commission of the offence, in accordance with Directive 2014/42/EU of the European Parliament and of the Council²².**

Amendment

deleted

²² **Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39 ELI: <http://data.europa.eu/eli/dir/2014/42/oj>).**

Or. en

Amendment 414

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba,

Jadwiga Wiśniewska

**Proposal for a directive
Article 8 – paragraph 3 – point a**

Text proposed by the Commission

(a) **3%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 3;

Amendment

(a) **10%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 3;

Or. pl

**Amendment 415
Erik Marquardt**

**Proposal for a directive
Article 8 – paragraph 3 – point a**

Text proposed by the Commission

(a) **3%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 3;

Amendment

(a) **3%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article **3(1)**;

Or. en

**Amendment 416
Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri**

**Proposal for a directive
Article 8 – paragraph 3 – point a**

Text proposed by the Commission

(a) **3%** of the total worldwide turnover of the legal person, either in the business

Amendment

(a) **5%** of the total worldwide turnover of the legal person, either in the business

year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 3;

year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 3;

Or. en

Amendment 417
Sebastian Tynkkynen

Proposal for a directive
Article 8 – paragraph 3 – point a

Text proposed by the Commission

(a) **3%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 3;

Amendment

(a) **5%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 3;

Or. fi

Amendment 418
Nadine Morano

Proposal for a directive
Article 8 – paragraph 3 – point a

Text proposed by the Commission

(a) **3%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 3;

Amendment

(a) **6%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 3;

Or. fr

Amendment 419

Erik Marquardt

Proposal for a directive

Article 8 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) **5% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, points (a) to (d);** **deleted**

Or. en

Amendment 420

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 8 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) **5% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, points (a) to (d);**

(b) **15%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, points (a) to (d);

Or. pl

Amendment 421

Nadine Morano

Proposal for a directive

Article 8 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) **5%** of the total worldwide turnover (b) **10%** of the total worldwide

of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, points (a) to (d);

turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, points (a) to (d);

Or. fr

Amendment 422
Sebastian Tynkkynen

Proposal for a directive
Article 8 – paragraph 3 – point b

Text proposed by the Commission

(b) 5% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, points (a) to (d);

Amendment

(b) 7% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, points (a) to (d);

Or. fi

Amendment 423
Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive
Article 8 – paragraph 3 – point b

Text proposed by the Commission

(b) 5% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, points (a) to (d);

Amendment

(b) 7% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, points (a) to (d);

Or. en

Amendment 424
Erik Marquardt

Proposal for a directive
Article 8 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) 6% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, point (e).

deleted

Or. en

Amendment 425
Nadine Morano

Proposal for a directive
Article 8 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) 6% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, point (e).

(c) 12% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, point (e).

Or. fr

Amendment 426
Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive
Article 8 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) **6%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, point (e)

(c) **30%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, point (e)

Or. pl

Amendment 427
Sebastian Tynkkynen

Proposal for a directive
Article 8 – paragraph 3 – point c

Text proposed by the Commission

(c) **6%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, point (e).

Amendment

(c) **9%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, point (e).

Or. fi

Amendment 428
Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive
Article 8 – paragraph 3 – point c

Text proposed by the Commission

(c) **6%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, point (e).

Amendment

(c) **8%** of the total worldwide turnover of the legal person, either in the business year preceding the one in which the criminal offence was committed, or in the business year preceding the fining decision, for criminal offences referred to in Article 4, point (e).

Or. en

Amendment 429

Lena Düpont, Lukas Mandl, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 8 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. If imperative to preserve the coherence of the national penalty system for legal persons, where national law does not determine the amount of criminal or non-criminal fines for legal persons in proportion to the gravity of the offence committed by a natural person, the amount of fines for legal persons held liable pursuant to Article 7(1) for the criminal offences covered by Articles 3, 6(3) and 6(4) may be based on other criteria instead of the ones set out in Article 8(3), provided that, as a result, the level of penalties is consistent with the one provided for in national law for crimes committed by legal persons of a comparable seriousness and that the penalties are effective proportionate and dissuasive. Without prejudice to Article 8(2), such penalty systems shall also include the possibility of

a) imposing monetary sanctions that take into account gaps or deficiencies within the structure and organisation of the legal person which have allowed offences to take place;

b) compensation claims; and

c) confiscation.

Or. en

Amendment 430

Georgiana Teodorescu

Proposal for a directive

Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall take the necessary measures to ensure that the following circumstances *may be* regarded as aggravating circumstances, in relation to the criminal offences referred to Articles 3, 4 and 5:

Amendment

Member States shall take the necessary measures to ensure that the following circumstances *are* regarded as aggravating circumstances, in relation to the criminal offences referred to Articles 3, 4 and 5:

Or. ro

Amendment 431

Erik Marquardt

Proposal for a directive

Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall take the necessary measures to ensure that the following circumstances may be regarded as aggravating circumstances, in relation to the criminal offences referred to Articles 3, 4 and 5:

Amendment

Member States shall take the necessary measures to ensure that the following circumstances may be regarded as aggravating circumstances, in relation to the criminal offences referred to Articles **3(1)** and 5:

Or. en

Amendment 432

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall take the necessary measures to ensure that the following circumstances may be regarded as aggravating circumstances, in relation to the criminal offences referred to Articles 3, **4 and 5**:

Amendment

Member States shall take the necessary measures to ensure that the following circumstances may be regarded as aggravating circumstances, in relation to the criminal offences referred to Articles 3:

Or. en

Amendment 433

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 9 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the criminal offence was committed by a public official when performing his or her duties; *deleted*

Or. en

Amendment 434

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 9 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the criminal offence enabled a terrorist activity or other serious crime, such as paedophilia;

Or. pl

Amendment 435

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 9 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the criminal offence entailed or resulted in the involvement of third-country nationals who were subject to the criminal offence in illegal employment as referred to in Directive 2009/52/EC of the European Parliament and of the Council²³ ; *deleted*

²³ *Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24, ELI: <http://data.europa.eu/eli/dir/2009/52/oj>).*

Or. en

Amendment 436
Erik Marquardt

Proposal for a directive
Article 9 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the criminal offence entailed or resulted in the involvement of third-country nationals who were subject to the criminal offence in illegal employment as referred to in Directive 2009/52/EC of the European Parliament and of the Council²³ ; *deleted*

²³ *Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24, ELI: <http://data.europa.eu/eli/dir/2009/52/oj>).*

Or. en

Amendment 437
Erik Marquardt

Proposal for a directive
Article 9 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the offender has previously been definitively convicted of criminal offences of the same nature under Articles 3, 4 or 5;

(c) the offender has previously been definitively convicted of criminal offences of the same nature under Articles 3(I) or 5;

Or. en

Amendment 438

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 9 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the offender has previously been definitively convicted of criminal offences of the same nature under Articles 3, 4 **or 5**;

(c) the offender has previously been definitively convicted of criminal offences of the same nature under Articles 3;

Or. en

Amendment 439

Fabienne Keller, Raquel García Hermida-Van Der Walle, Hilde Vautmans, Irena Joveva

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

Sophie Wilmès

Proposal for a directive

Article 9 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) the criminal offence entailed or resulted in the exploitation **or** instrumentalisation of a third-country national who was subject to the criminal offence;

(d) the criminal offence entailed or resulted in the exploitation, instrumentalisation **or other forms of illegal manipulation or control** of a third-country national who was subject to the criminal offence;

Or. en

Amendment 440

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 9 – paragraph 1 – point d

Text proposed by the Commission

(d) the criminal offence entailed or resulted in the exploitation *or instrumentalisation* of a third-country national who was *subject to* the criminal offence;

Amendment

(d) the criminal offence entailed or resulted in *inhumane or degrading treatment, including for* the exploitation of a third-country national who was *the victim of* the criminal offence;

Or. en

Amendment 441
Erik Marquardt

Proposal for a directive
Article 9 – paragraph 1 – point d

Text proposed by the Commission

(d) the criminal offence entailed or resulted in the exploitation or *instrumentalisation* of a third-country national who was subject to the criminal offence;

Amendment

(d) the criminal offence entailed or resulted in the *death*, exploitation or *cruel, inhuman or degrading treatment* of a third-country national who was subject to the criminal offence;

Or. en

Amendment 442
Cecilia Strada

Proposal for a directive
Article 9 – paragraph 1 – point d

Text proposed by the Commission

(d) the criminal offence entailed or resulted in the exploitation *or instrumentalisation* of a third-country national who was subject to the criminal offence;

Amendment

(d) the criminal offence entailed or resulted in the exploitation of a third-country national who was subject to the criminal offence;

Or. en

Amendment 443

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 9 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) *dispossessing the third-country nationals who are subject to the criminal offence of their identity or travel documents;* ***deleted***

Or. en

Amendment 444

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 9 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) *the criminal offence was carried out while carrying a firearm.* ***deleted***

Or. en

Amendment 445

Fabienne Keller, Abir Al-Sahlani, Sophie Wilmès, Raquel García Hermida-Van Der Walle, Irena Joveva

Proposal for a directive

Article 9 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) *the criminal offence was carried out while carrying a firearm.* **(f) *the criminal offence was carried out while carrying a firearm **or any object intended to threaten and cause physical harm to the third-country national who was the object of the criminal offence.*****

Or. en

Justification

The firearm alone is not explained, but carrying a weapon should remain an aggravating circumstance.

Amendment 446

Jan-Christoph Oetjen, Fabienne Keller

Proposal for a directive

Article 9 – paragraph 1 – point f

Text proposed by the Commission

(f) the criminal offence was *carried out while carrying a firearm*.

Amendment

(f) the criminal offence was *committed involving cruel, inhumane or degrading treatment of a third-country national who was the object of the criminal offence*.

Or. en

Amendment 447

Nadine Morano

Proposal for a directive

Article 9 – paragraph 1 – point f

Text proposed by the Commission

(f) the criminal offence was carried out while carrying a *firearm*.

Amendment

(f) the criminal offence was carried out while carrying a *weapon*.

Or. fr

Amendment 448

Fabienne Keller, Raquel García Hermida-Van Der Walle, Hilde Vautmans, Irena Joveva, Jan-Christoph Oetjen

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

Sophie Wilmès

Proposal for a directive

Article 9 – paragraph 1 – point f – point 1 (new)

Text proposed by the Commission

Amendment

1) (g) the victim is a minor or is in a situation of particular vulnerability which is known to or deliberately exploited by the perpetrator.

Or. en

Amendment 449

Nicolas Bay, Laurence Trochu, Marion Maréchal, Guillaume Peltier

Proposal for a directive

Article 9 – paragraph 1 – point f – point i (new)

Text proposed by the Commission

Amendment

(i) the criminal offence was shared in order to promote the prohibited act, in particular on social media.

Or. fr

Amendment 450

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 9 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(f a) the criminal offence was committed using digital platforms or encrypted communication tools to evade detection.

Or. en

Amendment 451

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 9 – paragraph 1 – point f b (new)

Text proposed by the Commission

Amendment

(f b) the criminal offence was committed using falsified identity documents or intentionally destroyed documentation to hinder investigation.

Or. en

Amendment 452

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 9 – paragraph 1 – point f c (new)

Text proposed by the Commission

Amendment

(f c) the criminal offence was committed involving cruel, inhuman or degrading treatment of a third country national who was the object of this offence.

Or. en

Amendment 453

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 9 – paragraph 1 – point f d (new)

Text proposed by the Commission

Amendment

(f d) the criminal offence entailed the possession, manufacture or distribution of modified vehicles or sea vessels designed for concealment or illegal transport.

Or. en

Amendment 454

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall take the necessary measures to ensure that, in relation to the criminal *offences* referred to in *Articles 3, 4 and 5*, *it* may be regarded as a mitigating circumstance *that the offender provides the competent authorities with information which they would not otherwise been able to obtain, helping them to:*

Amendment

Member States shall take the necessary measures to ensure that, in relation to the criminal *offence* referred to in *Article 3*, *the following*, may be regarded as a mitigating circumstance:

Or. en

Amendment 455

Erik Marquardt

Proposal for a directive

Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall take the necessary measures to ensure that, in relation to the criminal offences referred to in Articles 3, 4 and 5, *it* may be regarded as a mitigating circumstance *that the offender provides the competent authorities with information which they would not otherwise been able to obtain, helping them to:*

Amendment

Member States shall take the necessary measures to ensure that, in relation to the criminal offences referred to in Articles 3(1) and 5, *the following* may be regarded as a mitigating circumstance:

Or. en

Amendment 456

Erik Marquardt

Proposal for a directive

Article 10 – paragraph 1 – point a

Text proposed by the Commission

(a) identify or bring to justice other offenders; or

Amendment

(a) ***that the offender provides the competent authorities with information helping them to*** identify or bring to justice other offenders; or

Or. en

Amendment 457

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 10 – paragraph 1 – point a

Text proposed by the Commission

(a) identify or bring to justice other offenders; or

Amendment

(a) ***providing the competent authorities with information helping them to*** identify or bring to justice other offenders; or

Or. en

Amendment 458

Erik Marquardt

Proposal for a directive

Article 10 – paragraph 1 – point b

Text proposed by the Commission

(b) find evidence.

Amendment

(b) ***that the offender provides the competent authorities with information helping them to*** find evidence.

Or. en

Amendment 459

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 10 – paragraph 1 – point b

Text proposed by the Commission

(b) find evidence.

Amendment

(b) ***providing the competent authorities with information helping them to find evidence.***

Or. en

Amendment 460

Erik Marquardt

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial ***decision*** of criminal offences referred to in Articles 3, 4 and 5 for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.

Amendment

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial ***adjudication*** of criminal offences referred to in Articles ***3(1)*** and 5 for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.

Or. en

Amendment 461

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Fourlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and ***judicial decision*** of criminal offences referred to in Articles 3, 4 and 5 for a

Amendment

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and ***adjudication*** of criminal offences referred to in Articles 3, 4 and 5 for a sufficient

sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.

period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.

Or. en

Amendment 462

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and **judicial decision of criminal offences** referred to in **Articles 3, 4 and 5** for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.

Amendment

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and **adjudication of the criminal offence** referred to in **Article 3** for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.

Or. en

Amendment 463

Erik Marquardt

Proposal for a directive

Article 11 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall take the necessary measures to enable the investigation, prosecution, trial and judicial **decision**:

Amendment

2. Member States shall take the necessary measures to enable the investigation, prosecution, trial and judicial **adjudication**:

Or. en

Amendment 464

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 11 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall take the necessary measures to enable the investigation, prosecution, trial and **judicial decision**:

Amendment

2. Member States shall take the necessary measures to enable the investigation, prosecution, trial and **adjudication**:

Or. en

Amendment 465

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive

Article 11 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall take the necessary measures to enable the investigation, prosecution, trial and **judicial decision**:

Amendment

2. Member States shall take the necessary measures to enable the investigation, prosecution, trial and **adjudication**:

Or. en

Amendment 466

Erik Marquardt

Proposal for a directive

Article 11 – paragraph 2 – point a

Text proposed by the Commission

(a) of criminal offences referred to in Article 3, **for a** period of at least **seven** years from the time when the criminal offence was committed,

Amendment

(a) of criminal offences referred to in Article 3(1), **which are punishable by a maximum penalty of at least two years, within a limitation** period of at least **three** years from the time when the criminal offence was committed;

Amendment 467

Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive

Article 11 – paragraph 2 – point a

Text proposed by the Commission

(a) of criminal offences *referred to in Article 3*, for a period of at least *seven* years from the *time when* the criminal offence *was committed*,

Amendment

(a) of criminal offences *punishable by a maximum term of imprisonment of at least three years*, for a period of at least *three* years from the *commission of* the criminal offence

Or. en

Justification

The idea of proportionality between the length of the sentence incurred and that of the statute of limitations is welcome, but the two years proposed by the rapporteur must be increased to three, to ensure the effectiveness of the fight against migrant smuggling.

Amendment 468

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 11 – paragraph 2 – point a

Text proposed by the Commission

(a) of criminal offences referred to in Article 3, for a period of at least *seven* years from the time when the criminal offence was committed,

Amendment

(a) of criminal offences referred to in Article 3, for a period of at least *ten* years from the time when the criminal offence was committed,

Or. pl

Amendment 469

Iłaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 11 – paragraph 2 – point a

Text proposed by the Commission

(a) of criminal offences referred to in Article 3, for a period of at least **seven** years from the time when the criminal offence was committed,

Amendment

(a) of criminal offences referred to in Article 3, for a period of at least **three** years from the time when the criminal offence was committed,

Or. en

Amendment 470

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Article 11 – paragraph 2 – point a

Text proposed by the Commission

(a) of criminal offences referred to in Article 3, for a period of at least **seven** years from the time when the criminal offence was committed,

Amendment

(a) of criminal offences referred to in Article 3, for a period of at least **ten** years from the time when the criminal offence was committed,

Or. en

Amendment 471

Sebastian Tynkkynen

Proposal for a directive

Article 11 – paragraph 2 – point a

Text proposed by the Commission

(a) of criminal offences referred to in Article 3, for a period of at least **seven** years from the time when the criminal offence was committed,

Amendment

(a) of criminal offences referred to in Article 3, for a period of at least **10** years from the time when the criminal offence was committed,

Or. fi

Amendment 472

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 11 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) of criminal offences referred to in Article 4, points (a) to (d) for a period of at least ten years from the time when the criminal offence was committed;

deleted

Or. en

Amendment 473
Erik Marquardt

Proposal for a directive
Article 11 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) of criminal offences referred to in Article 4, points (a) to (d) for a period of at least **ten** years from the time when the criminal offence was committed;

(b) of criminal offences referred to in Article 3(1), **which are punishable by a maximum penalty of at least five years, within a limitation** period of at least **five** years from the time when the criminal offence was committed;

Or. en

Amendment 474
Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive
Article 11 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) of criminal offences **referred to in Article 4, points (a) to (d)** for a period of at least **ten** years from the **time when** the criminal offence **was committed**;

(b) of criminal offences **punishable by a maximum term of imprisonment of at least eight years**, for a period of at least **eight** years from the **commission of** the criminal offence;

Or. en

Justification

The idea of proportionality between the length of the sentence incurred and that of the statute of limitations is welcome, but the five years proposed by the rapporteur must be increased to eight, to ensure the effectiveness of the fight against migrant smuggling and consistency with the current state of the law.

Amendment 475

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive

Article 11 – paragraph 2 – point b

Text proposed by the Commission

(b) of criminal offences referred to in Article 4, points (a) to (d) for a period of at least **ten** years from the time when the criminal offence was committed;

Amendment

(b) of criminal offences referred to in Article 4, points (a) to (d) for a period of at least **twelve** years from the time when the criminal offence was committed;

Or. en

Amendment 476

Sebastian Tynkkynen

Proposal for a directive

Article 11 – paragraph 2 – point b

Text proposed by the Commission

(b) of criminal offences referred to in Article 4, points (a) to (d) for a period of at least **ten** years from the time when the criminal offence was committed;

Amendment

(b) of criminal offences referred to in Article 4, points (a) to (d) for a period of at least **15** years from the time when the criminal offence was committed;

Or. fi

Amendment 477

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 11 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) of criminal offences referred to in Article 4, points (a) to (d) for a period of at least **ten** years from the time when the criminal offence was committed;

(b) of criminal offences referred to in Article 4, points (a) to (d) for a period of at least **fifteen** years from the time when the criminal offence was committed;

Or. pl

Amendment 478

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 11 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) of criminal offences referred to in Article 4, point (e), including attempts to commit the offence referred to in Article 4, point (e), for a period of at least fifteen years from the time when the criminal offence was committed.

deleted

Or. en

Amendment 479

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 11 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) of criminal offences referred to in Article 4, point (e), including attempts to commit the offence referred to in Article 4, point (e), for a period of at least **fifteen** years from the time when the criminal offence was committed.

(c) of criminal offences referred to in Article 4, point (e), including attempts to commit the offence referred to in Article 4, point (e), for a period of at least **twenty** years from the time when the criminal offence was committed.

Or. pl

Amendment 480
Sebastian Tynkkynen

Proposal for a directive
Article 11 – paragraph 2 – point c

Text proposed by the Commission

(c) of criminal offences referred to in Article 4, point (e), including attempts to commit the offence referred to in Article 4, point (e), for a period of at least **fifteen** years from the time when the criminal offence was committed.

Amendment

(c) of criminal offences referred to in Article 4, point (e), including attempts to commit the offence referred to in Article 4, point (e), for a period of at least **20** years from the time when the criminal offence was committed.

Or. fi

Amendment 481
Erik Marquardt

Proposal for a directive
Article 11 – paragraph 2 – point c

Text proposed by the Commission

(c) of criminal offences referred to in Article 4, **point (e), including attempts to commit the offence referred to in Article 4, point (e), for a period of at least fifteen** years from the time when the criminal offence was committed.

Amendment

(c) of criminal offences referred to in Article **3(1), which are punishable by a maximum penalty of at least ten years, within a limitation** period of at least **ten** years from the time when the criminal offence was committed.

Or. en

Amendment 482
Erik Marquardt

Proposal for a directive
Article 11 – paragraph 3 – point a

Text proposed by the Commission

(a) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 3, for at least

Amendment

(a) a penalty of imprisonment in the case of a criminal offence **which is punishable by a maximum penalty of at least two years**, imposed following a final

seven years from the date of the final conviction;

conviction for a criminal offence referred to in Article **3(1)**, for at least *three* years from the date of the final conviction;

Or. en

Amendment 483

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 11 – paragraph 3 – point a

Text proposed by the Commission

(a) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 3, for at least *seven* years from the date of the final conviction;

Amendment

(a) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 3, for at least *ten* years from the date of the final conviction;

Or. pl

Amendment 484

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 11 – paragraph 3 – point a

Text proposed by the Commission

(a) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 3, for at least *seven* years from the date of the final conviction;

Amendment

(a) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 3, for at least *three* years from the date of the final conviction;

Or. en

Amendment 485

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive
Article 11 – paragraph 3 – point a

Text proposed by the Commission

(a) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 3, for at least **seven** years from the date of the final conviction;

Amendment

(a) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 3, for at least **ten** years from the date of the final conviction;

Or. en

Amendment 486
Sebastian Tynkkynen

Proposal for a directive
Article 11 – paragraph 3 – point a

Text proposed by the Commission

(a) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 3, for at least **seven** years from the date of the final conviction;

Amendment

(a) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 3, for at least **10** years from the date of the final conviction;

Or. fi

Amendment 487
Ilaría Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 11 – paragraph 3 – point b

Text proposed by the Commission

(b) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, points (a) to (d), for at least ten years from the date of the final conviction;

Amendment

deleted

Amendment 488
Erik Marquardt

Proposal for a directive
Article 11 – paragraph 3 – point b

Text proposed by the Commission

(b) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, points (a) to (d), for at least **ten** years from the date of the final conviction;

Amendment

(b) a penalty of imprisonment in the case of a criminal offence **which is punishable by a maximum penalty of at least five years**, imposed following a final conviction for a criminal offence referred to in Article 3(1), for at least **five** years from the date of the final conviction;

Or. en

Amendment 489

Nikola Bartůšek, Alexandre Varaut, Tom Vandendriessche, Marieke Ehlers, Fabrice Leggeri

Proposal for a directive
Article 11 – paragraph 3 – point b

Text proposed by the Commission

(b) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, points (a) to (d), for at least **ten** years from the date of the final conviction;

Amendment

(b) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, points (a) to (d), for at least **twelve** years from the date of the final conviction;

Or. en

Amendment 490

Sebastian Tynkkynen

Proposal for a directive
Article 11 – paragraph 3 – point b

Text proposed by the Commission

(b) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, points (a) to (d), for at least **ten** years from the date of the final conviction;

Amendment

(b) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, points (a) to (d), for at least **15** years from the date of the final conviction;

Or. fi

Amendment 491

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 11 – paragraph 3 – point b

Text proposed by the Commission

(b) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, points (a) to (d), for at least **ten** years from the date of the final conviction;

Amendment

(b) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, points (a) to (d), for at least **fifteen** years from the date of the final conviction;

Or. pl

Amendment 492

Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive

Article 11 – paragraph 3 – point b

Text proposed by the Commission

(b) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence **referred to** in Article 4, **points (a) to (d)**, for at least **ten** years from the date of the final conviction;

Amendment

(b) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence **covered** in Article **6(3)**, for at least **eight** years from the date of the final conviction;

Or. en

Justification

The idea of proportionality between the length of the sentence incurred and that of the statute of limitations is welcome, but the five years proposed by the rapporteur must be increased to eight, to ensure the effectiveness of the fight against migrant smuggling.

Amendment 493

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 11 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e), for at least fifteen years from the date of the final conviction. **deleted**

Or. en

Amendment 494

Erik Marquardt

Proposal for a directive

Article 11 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e), for at least *fifteen* years from the date of the final conviction.

(c) a penalty of imprisonment in the case of a criminal offence *which is punishable by a maximum penalty of at least ten years*, imposed following a final conviction for a criminal offence referred to in Article 3(1), for at least *ten* years from the date of the final conviction.

Or. en

Amendment 495

**Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba,
Jadwiga Wiśniewska**

**Proposal for a directive
Article 11 – paragraph 3 – point c**

Text proposed by the Commission

(c) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e), for at least **fifteen** years from the date of the final conviction.

Amendment

(c) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e), for at least **twenty** years from the date of the final conviction.

Or. pl

**Amendment 496
Sebastian Tynkkynen**

**Proposal for a directive
Article 11 – paragraph 3 – point c**

Text proposed by the Commission

(c) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e), for at least **fifteen** years from the date of the final conviction.

Amendment

(c) a penalty of imprisonment in the case of a criminal offence, imposed following a final conviction for a criminal offence referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e), for at least **20** years from the date of the final conviction.

Or. fi

**Amendment 497
Tomáš Zdechovský**

**Proposal for a directive
Article 11 – paragraph 4 – introductory part**

Text proposed by the Commission

Amendment

4. By way of derogation from paragraphs 2 and 3, Member States may establish a shorter limitation period, provided that the period may be interrupted or suspended in the event of specified acts. This period shall not be shorter than:

4. By way of derogation from paragraphs 2 and 3, Member States may ***provide for longer limitation periods in cases involving organised crime, offences against vulnerable persons, or offences resulting in death. Member States may also*** establish a shorter limitation period, provided that the period may be interrupted or suspended in the event of specified acts. This period shall not be shorter than:

Or. en

Amendment 498

Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive

Article 11 – paragraph 4 – introductory part

Text proposed by the Commission

4. By way of derogation from ***paragraphs 2 and 3***, Member States may establish a shorter limitation period, provided that the period may be interrupted or suspended in the event of specified acts. ***This*** period shall not be shorter than:

Amendment

4. By way of derogation from ***paragraph 2, points b and c, and paragraph 3, points b and c***, Member States may establish a shorter limitation period, provided that the period may be interrupted or suspended in the event of specified acts. ***That*** period shall not be shorter than ***five years***.

Or. en

Justification

This is a coordinating amendment to the other amendments proposed on article 11 paragraphs 2 and 3.

Amendment 499

Erik Marquardt

Proposal for a directive

Article 11 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

4. By way of derogation from paragraphs 2 and 3, Member States may establish a *shorter* limitation period, provided that the period may be interrupted or suspended in the event of specified acts.
This period shall not be shorter than:

4. By way of derogation from paragraphs 2 and 3, Member States may establish a limitation period ***that is shorter than ten years, but not shorter than three years***, provided that the period may be interrupted or suspended in the event of specified acts.

Or. en

Amendment 500
Erik Marquardt

Proposal for a directive
Article 11 – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) ***five years for the criminal offences referred to in Article 3;***

deleted

Or. en

Amendment 501
Sebastian Tynkkynen

Proposal for a directive
Article 11 – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) ***five*** years for the criminal offences referred to in Article 3;

(a) ***seven*** years for the criminal offences referred to in Article 3;

Or. fi

Amendment 502
Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive
Article 11 – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) **five** years for the criminal offences referred to in Article 3;

(a) **eight** years for the criminal offences referred to in Article 3;

Or. pl

Amendment 503
Erik Marquardt

Proposal for a directive
Article 11 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) **eight years for the criminal offences referred to in Article 4, points (a) to (d);**

deleted

Or. en

Amendment 504
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 11 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) **eight years for the criminal offences referred to in Article 4, points (a) to (d);**

deleted

Or. en

Amendment 505
Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive
Article 11 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) **eight** years for the criminal offences referred to in Article 4, points (a) to (d);

(b) **ten** years for the criminal offences referred to in Article 4, points (a) to (d);

Or. pl

Amendment 506
Sebastian Tynkkynen

Proposal for a directive
Article 11 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) **eight** years for the criminal offences referred to in Article 4, points (a) to (d);

(b) **10** years for the criminal offences referred to in Article 4, points (a) to (d);

Or. fi

Amendment 507
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 11 – paragraph 4 – point c

Text proposed by the Commission

Amendment

(c) **ten years for the criminal offences referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e).**

deleted

Or. en

Amendment 508
Erik Marquardt

Proposal for a directive
Article 11 – paragraph 4 – point c

Text proposed by the Commission

Amendment

(c) **ten years for the criminal offences**

deleted

*referred to in Article 4, point (e),
including attempts to commit the criminal
offence referred to in Article 4, point (e).*

Or. en

Amendment 509

**Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba,
Jadwiga Wiśniewska**

Proposal for a directive

Article 11 – paragraph 4 – point c

Text proposed by the Commission

(c) *ten* years for the criminal offences referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e).

Amendment

(c) *fifteen* years for the criminal offences referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e).

Or. pl

Amendment 510

Sebastian Tynkkynen

Proposal for a directive

Article 11 – paragraph 4 – point c

Text proposed by the Commission

(c) *ten* years for the criminal offences referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e).

Amendment

(c) *12* years for the criminal offences referred to in Article 4, point (e), including attempts to commit the criminal offence referred to in Article 4, point (e).

Or. fi

Amendment 511

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 12 – paragraph 1 – introductory part

Text proposed by the Commission

1. Each Member State shall establish its jurisdiction over **a** criminal offence referred to in **Articles 3, 4 and 5** where **the criminal offence**:

Amendment

1. Each Member State shall establish its jurisdiction over **the** criminal offence referred to in **Article 3** where:

Or. en

Amendment 512
Erik Marquardt

Proposal for a directive
Article 12 – paragraph 1 – introductory part

Text proposed by the Commission

1. Each Member State shall establish its jurisdiction over a criminal offence referred to in Articles **3, 4** and 5 where **the criminal offence**:

Amendment

1. Each Member State shall establish its jurisdiction over a criminal offence referred to in Articles **3(1)** and 5 where:

Or. en

Amendment 513
Erik Marquardt

Proposal for a directive
Article 12 – paragraph 1 – point a

Text proposed by the Commission

(a) **is** committed in whole or in part in its territory;

Amendment

(a) **the criminal offence was** committed in whole or in part in its territory;

Or. en

Amendment 514
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 12 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) is committed in whole or in part in its territory;

(a) ***the criminal offence*** is committed in whole or in part in its territory;

Or. en

Amendment 515

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 12 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) is ***committed by*** one of its nationals or ***a third-country nationals who is a habitual resident in its territory;***

(b) ***the offender*** is one of its nationals;

Or. en

Amendment 516

Erik Marquardt

Proposal for a directive

Article 12 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) is ***committed by*** one of its nationals or ***a third-country nationals who is a habitual resident in its territory;***

(b) ***the offender*** is one of its nationals or habitual ***residents;***

Or. en

Amendment 517

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 12 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) ***is committed for the benefit of a***

deleted

legal person

(i) established in its territory;

(ii) in respect of any business done in whole or in part in its territory;

Or. en

Amendment 518

Erik Marquardt

Proposal for a directive

Article 12 – paragraph 1 – point c – introductory part

Text proposed by the Commission

Amendment

(c) is committed for the benefit of a legal person

(c) is committed for the *financial or other material* benefit of a legal person

Or. en

Amendment 519

Erik Marquardt

Proposal for a directive

Article 12 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) results in the entry, transit or stay in the territory of that Member State of third-country nationals who were subject to the criminal offence.

deleted

Or. en

Amendment 520

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 12 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) results in the entry, transit or stay in the territory of that Member State of third-country nationals who were subject to the criminal offence.

deleted

Or. en

Amendment 521

Malik Azmani, Fabienne Keller

Proposal for a directive

Article 12 – paragraph 1 – point e

Text proposed by the Commission

(e) results in the entry, transit or stay in the territory of that Member State of third-country nationals who were subject to the criminal offence.

Amendment

(e) aspires to the entry, transit or stay in the territory of that Member State of third-country nationals who were subject to the criminal offence.

Or. en

Amendment 522

Malik Azmani, Fabienne Keller

Proposal for a directive

Article 12 – paragraph 1 – point e a (new)

Text proposed by the Commission

(e a) Since organised criminal networks involved in migrant smuggling operate both within the European Union and beyond, it is important that human traffickers can also be effectively tracked, prosecuted, and punished outside of Europe. This must be in line with international law.

Amendment

(e a) Since organised criminal networks involved in migrant smuggling operate both within the European Union and beyond, it is important that human traffickers can also be effectively tracked, prosecuted, and punished outside of Europe. This must be in line with international law.

Or. en

Amendment 523

Ilaria Salis, Damien Carême, Estrella Galán

**Proposal for a directive
Article 12 – paragraph 2**

Text proposed by the Commission

Amendment

2. Member States shall establish jurisdiction over attempts to commit a criminal offence referred to in Article 4 point (e), where the conduct would have constituted a criminal offence over which jurisdiction would have been established pursuant to paragraph 1. *deleted*

Or. en

**Amendment 524
Erik Marquardt**

**Proposal for a directive
Article 12 – paragraph 2**

Text proposed by the Commission

Amendment

2. Member States shall establish jurisdiction over attempts to commit a criminal offence referred to in Article 4 point (e), where the conduct would have constituted a criminal offence over which jurisdiction would have been established pursuant to paragraph 1. *deleted*

Or. en

**Amendment 525
Ilaria Salis, Damien Carême, Estrella Galán**

**Proposal for a directive
Article 12 – paragraph 3**

Text proposed by the Commission

Amendment

3. For the prosecution of the criminal offences referred to in Articles 3, 4 and 5 committed outside the territory of a Member State, each Member State shall take the necessary measures to ensure *deleted*

that its jurisdiction is not subject to either of the following conditions:

(a) the acts are a criminal offence at the place where they were carried out;

(b) the prosecution can be initiated only following a transmission of information from the State of the place where the criminal offence was committed.

Or. en

Amendment 526
Erik Marquardt

Proposal for a directive
Article 12 – paragraph 3 – introductory part

Text proposed by the Commission

3. *For the prosecution of the criminal offences referred to in Articles 3, 4 and 5 committed outside the territory of a Member State, each Member State shall take the necessary measures to ensure that its jurisdiction is not subject to either of the following conditions:*

Amendment

3. *In cases referred to in paragraph 1, points (b) and (c), Member States shall take the necessary measures to ensure that exercise of their jurisdiction is not subject to the condition that the prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed.*

Or. en

Amendment 527
Erik Marquardt

Proposal for a directive
Article 12 – paragraph 3 – point a

Text proposed by the Commission

(a) the acts are a criminal offence at the place where they were carried out;

Amendment

deleted

Or. en

Amendment 528

Erik Marquardt

Proposal for a directive

Article 12 – paragraph 3 – point b

Text proposed by the Commission

(b) the prosecution can be initiated only following a transmission of information from the State of the place where the criminal offence was committed.

Amendment

deleted

Or. en

Amendment 529

Erik Marquardt

Proposal for a directive

Article 12 – paragraph 4

Text proposed by the Commission

4. Where a criminal offence referred to in Articles 3, 4 and 5 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State is to conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Framework Decision 2009/948/JHA, be referred to Eurojust.

Amendment

4. Where a criminal offence referred to in Articles **3(1)** and 5 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State is to conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Framework Decision 2009/948/JHA, be referred to Eurojust.

Or. en

Amendment 530

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 12 – paragraph 4

Text proposed by the Commission

4. Where a criminal offence referred to in **Articles 3, 4 and 5** falls within the

Amendment

4. Where a criminal offence referred to in **Article 3** falls within the jurisdiction

jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State is to conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Framework Decision 2009/948/JHA, be referred to Eurojust.

of more than one Member State, these Member States shall cooperate to determine which Member State is to conduct *the* criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Framework Decision 2009/948/JHA, be referred to Eurojust.

Or. en

Amendment 531
Tomáš Zdechovský

Proposal for a directive
Article 12 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. Member States shall cooperate closely to ensure the effective investigation and prosecution of offences under this Directive, including through joint investigation teams and mutual legal assistance.

Or. en

Amendment 532
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Assistance and support for victims of the offence

- 1. Member States shall take the necessary measures to ensure that a person is provided with assistance and support.**
- 2. Member States shall take the necessary measures to ensure that assistance and support for a victim are not made**

conditional on the victim's willingness to cooperate in the criminal investigation, prosecution or trial.

3. The assistance and support measures referred to in paragraph 1 shall be provided on a consensual and informed basis, and shall include at least standards of living capable of ensuring victims' subsistence through measures such as the provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate.

4. Member States shall attend to victims with special needs, where those needs derive, in particular, from whether they are pregnant, their health, a disability, a mental or psychological disorder they have, or a serious form of psychological, physical or sexual violence they have suffered.

Or. en

Amendment 533
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 12 b (new)

Text proposed by the Commission

Amendment

Article 12b

General provisions on assistance, support and protection measures for child victims of the offence

1. Child victims of the criminal offence referred to in Article 3 shall be provided with assistance, support and protection. In the application of this Directive, the child's best interests shall be a primary consideration.

2. Member States shall ensure that, where the age of a person subject to the offence referred to in Article 3 is uncertain and there are reasons to believe that the person is a child, that person is presumed to be a child in order to receive immediate access to assistance, support and protection.

Or. en

Amendment 534

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall take appropriate action, such as information and awareness-raising campaigns, and research and education programmes, aimed at raising public awareness and reducing the commission of the criminal offences referred to in Articles 3, **4 and 5**.

Amendment

1. Member States shall take appropriate action, such as information and awareness-raising campaigns, and research and education programmes, aimed at raising public awareness and reducing the commission of the criminal offences referred to in Articles 3. ***Such actions should also aim at ensuring access to international protection in the Union, including through issuing humanitarian visas, developing labour migration schemes, increasing visa-free agreements and opening other safe and legal pathways.***

Or. en

Amendment 535

Erik Marquardt

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall take appropriate action, such as information and

Amendment

1. Member States shall take appropriate action, such as information and

awareness-raising campaigns, and research and education programmes, aimed at raising public awareness and reducing the commission of the criminal offences referred to in Articles 3, 4 and 5.

awareness-raising campaigns, and research and education programmes, aimed at raising public awareness and reducing the commission of the criminal offences referred to in Articles 3(1) and 5.

Preventive actions shall also include establishing safe and legal pathways, including humanitarian visas and labour migration schemes, and ensuring access to international protection.

Or. en

Amendment 536
Sebastian Tynkkynen

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall take appropriate action, such as ***information and awareness-raising campaigns, and research and education programmes, aimed at raising public awareness and reducing*** the commission of the criminal offences referred to in Articles 3, 4 and 5.

Amendment

1. Member States ***and the Union*** shall take appropriate action, such as ***the construction of physical border barriers and the outsourcing of the asylum procedure, in order to reduce*** the commission of the criminal offences referred to in Articles 3, 4 and 5.

Or. fi

Amendment 537
Nadine Morano

Proposal for a directive
Article 13 – paragraph 1 – subparagraph 1 (new)

Text proposed by the Commission

Such campaigns should also warn against the activities of smuggling networks and forms of complicity, including by private actors and associations.

Or. fr

Amendment 538

Nadine Morano

Proposal for a directive

Article 13 – paragraph 2

Text proposed by the Commission

2. Where appropriate, Member States shall take the necessary measures to carry out the activities referred to in paragraph 1 in cooperation with other Member States, relevant Union agencies and third countries.

Amendment

2. Where appropriate, Member States shall take the necessary measures to carry out the activities referred to in paragraph 1 in cooperation with other Member States, relevant Union agencies and third countries. ***This cooperation may include targeted actions in sensitive maritime areas and European ports frequently used for the disembarkation of migrants by non-state actors.***

Or. fr

Amendment 539

Fabienne Keller, Abir Al-Sahlani, Sophie Wilmès, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive

Article 13 – paragraph 2

Text proposed by the Commission

2. Where appropriate, Member States shall take the necessary measures to carry out the activities referred to in paragraph 1 in cooperation with other Member States, relevant Union agencies and third countries.

Amendment

2. Where appropriate, Member States shall take the necessary measures to carry out the activities referred to in paragraph 1 in cooperation with other Member States, relevant Union agencies and third countries, ***in particular where such third countries constitute the location of those activities.***

Or. en

Justification

For those prevention activities to have a meaning, it should take place in third countries from which smugglers operate.

Amendment 540
Erik Marquardt

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

2. Where appropriate, Member States shall take the necessary measures to carry out the activities referred to in paragraph 1 in cooperation with other Member States, relevant Union agencies **and** third countries.

Amendment

2. Where appropriate, Member States shall take the necessary measures to carry out the activities referred to in paragraph 1 in cooperation with other Member States, relevant Union agencies, ***international and civil society organisations, and relevant authorities of*** third countries.

Or. en

Amendment 541

Lena Düpont, Javier Zarzalejos, Tomas Tobé, Jeroen Lenaers, Tomáš Zdechovský, Loucas Furlas, Caterina Chinnici, Rasa Juknevičienė, Lukas Mandl, Loránt Vincze, François-Xavier Bellamy

Proposal for a directive
Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Member States shall maintain a national register of transport operators and intermediaries implicated in smuggling offences, including those under investigation, with potential for temporary or permanent suspension of licences and authorisations.

Or. en

Amendment 542
Nadine Morano

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

Member States shall ensure that national authorities competent for the detection, investigation, prosecution or adjudication of the criminal offences referred to Articles 3, 4 and 5 have a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

Amendment

Member States shall ensure that national authorities competent for the detection, investigation, prosecution or adjudication of the criminal offences referred to Articles 3, 4 and 5 have a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive. ***They shall also seek to strengthen investigative capacities in cross-border and maritime contexts and to detect links between certain humanitarian operations and organised crime networks.***

Or. fr

Amendment 543
Erik Marquardt

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

Member States shall ensure that national authorities competent for the detection, investigation, prosecution or adjudication of the criminal offences referred to Articles **3, 4** and 5 have a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

Amendment

Member States shall ensure that national authorities competent for the detection, investigation, prosecution or adjudication of the criminal offences referred to Articles **3(1)** and 5 have a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

Or. en

Amendment 544
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

Member States shall ensure that national authorities competent for the detection, investigation, prosecution or adjudication of the criminal **offences** referred to **Articles 3, 4 and 5** have a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

Amendment

Member States shall ensure that national authorities competent for the detection, investigation, prosecution or adjudication of the criminal **offence** referred to **Article 3** have a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

Or. en

Amendment 545

Fabienne Keller, Raquel García Hermida-Van Der Walle, Hilde Vautmans, Irena Joveva, Jan-Christoph Oetjen
on behalf of the Committee on Civil Liberties, Justice and Home Affairs
Sophie Wilmès

Proposal for a directive

Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall support the provision of specialised training at regular intervals for law enforcement, judicial authorities and other relevant personnel, including with the support of relevant Union agencies such as Europol and CEPOL, with the necessary financial and operational resources.

Or. en

Amendment 546

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 15 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall take the necessary measures to ensure adequate resources for and the provision of specialised training at regular intervals for the members of the law enforcement, the judiciary and the staff of authorities tasked with criminal investigations and proceedings of criminal offences referred to in *Articles 3, 4 and 5*.

1. Member States shall take the necessary measures to ensure adequate resources for and the provision of specialised training at regular intervals for the members of the law enforcement, ***legal professionals***, the judiciary and the staff of authorities tasked with criminal investigations and proceedings of criminal offences referred to in *Article 3*. ***These trainings shall include how to operationalise states' obligations under international human rights law and standards on the right to defend human rights, as well as on the rights to freedom of expression, peaceful assembly and association, and refugee law.***

Or. en

Amendment 547
Erik Marquardt

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure adequate resources for and the provision of specialised training at regular intervals for the members of ***the*** law enforcement, the judiciary and the staff of authorities tasked with criminal investigations and proceedings of criminal offences referred to in Articles 3, 4 and 5.

Amendment

1. Member States shall take the necessary measures to ensure adequate resources for and the provision of specialised training at regular intervals for the members of law enforcement, the judiciary and the staff of authorities tasked with criminal investigations and proceedings of criminal offences referred to in Articles 3(1) and 5. ***Training shall include modules on Member States' fundamental rights obligations under EU and international law, including in particular on the rights to freedom of expression, peaceful assembly and association, the right to seek asylum and the principle of non-refoulement.***

Or. en

Amendment 548

Fabienne Keller, Raquel García Hermida-Van Der Walle, Hilde Vautmans, Irena Joveva, Jan-Christoph Oetjen

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

Sophie Wilmès

Proposal for a directive

Article 15 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure adequate resources for and the provision of specialised training at regular intervals for the members of the law enforcement, the judiciary and the staff of authorities tasked with criminal investigations and proceedings of criminal offences referred to in Articles 3, 4 and 5.

Amendment

1. Member States shall take the necessary measures to ensure adequate resources for and the provision of specialised training at regular intervals for the members of the law enforcement, the judiciary and the staff of authorities tasked with criminal investigations and proceedings of criminal offences referred to in Articles 3, 4 and 5. ***Such training may be supported by relevant Union agencies, including Europol and CEPOL, in order to ensure a high level of expertise and consistency across the Union.***

Or. en

Amendment 549

Nadine Morano

Proposal for a directive

Article 15 – paragraph 1 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Such training shall include a module on identifying mechanisms for humanitarian circumvention of EU law and the risks of collusion between smugglers and certain non-governmental entities.

Or. fr

Amendment 550

Nadine Morano

Proposal for a directive
Article 15 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that the relevant authorities are trained in the use of common Union databases, including SIS, VIS and ETIAS, in the detection of criminal patterns related to the facilitation of unauthorised entry or stay.

Or. fr

Amendment 551
Nadine Morano

Proposal for a directive
Article 15 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Union agencies and bodies with responsibilities in the areas covered by this Directive shall support these training efforts.

Or. fr

Amendment 552
Erik Marquardt

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Victims' rights

1. This Directive shall not affect victims' rights as provided for, in particular, in Directives 2004/81/EC, 2011/36/EU and 2012/29/EU.

2. Member States shall take the necessary

measures to afford appropriate protection and assistance to third country nationals whose lives, safety and well-being might be in danger as a consequence of an offence referred to in Articles 3(1) and 5, including during criminal investigation and proceedings.

3. Member States shall take the necessary measures to ensure that assistance and support for a victim are not made conditional on the victim's willingness to cooperate in the criminal investigation, prosecution or trial, without prejudice to Directive 2004/81/EC or similar national rules.

4. Member States shall ensure that third country nationals subject to migrant smuggling are able to exercise their right to apply for international protection or equivalent national status, including when they are receiving assistance, support and protection as a presumed or identified victim of migrant smuggling.

Or. en

Amendment 553

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 16 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that ***effective and*** proportionate investigative tools are available for investigating or prosecuting criminal offences referred to in Articles 3, 4 and 5. ***Where appropriate, these tools shall include special investigative tools, such as those which are used in countering organised crime or other serious crime cases.***

Amendment

1. Member States shall take the necessary measures to ensure that proportionate investigative tools are available for investigating or prosecuting criminal offences referred to in Articles 3.

Or. en

Amendment 554
Erik Marquardt

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that effective and proportionate investigative tools are available for investigating or prosecuting criminal offences referred to in Articles 3, 4 and 5. ***Where appropriate, these tools shall include special investigative tools, such as those which are used in countering organised crime or other serious crime cases.***

Amendment

Member States shall take the necessary measures to ensure that effective and proportionate investigative tools are available for investigating or prosecuting criminal offences referred to in Articles **3(1)** and 5.

Or. en

Amendment 555
Fabienne Keller, Abir Al-Sahlani, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that effective and proportionate investigative tools are available for investigating or prosecuting criminal offences referred to in Articles 3, 4 and 5. ***Where appropriate, these tools shall include special investigative tools, such as those which are used in countering organised crime or other serious crime cases.***

Amendment

Member States shall take the necessary measures to ensure that effective and proportionate investigative tools are available for investigating or prosecuting criminal offences referred to in Articles 3, 4 and 5.

Or. en

Justification

This part is deleted in this paragraph to adress this point in a more detailed manner in a

separate paragraph.

Amendment 556

Mariusz Kamiński, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 16 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that effective and proportionate investigative tools are available for investigating or prosecuting criminal offences referred to in Articles 3, 4 and 5. Where appropriate, these tools shall include special investigative tools, such as those which are used in countering organised crime or other serious crime cases.

Amendment

Member States shall take the necessary measures to ensure that effective and proportionate investigative ***and operational tools enabling communications to be intercepted using the latest available technologies*** are available for investigating or prosecuting criminal offences referred to in Articles 3, 4 and 5. Where appropriate, these tools shall include special investigative ***and operational*** tools, such as those which are used in countering organised crime or other serious crime cases.

Or. pl

Amendment 557

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Investigative tools for the criminal offences referred to in this Directive, such as those included in national law for combating organised crime or other serious crimes, should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union as well as in full compliance with the rights to privacy and freedom of expression guaranteed in articles 17 and 19 of the International Covenant on Civil

and Political Rights (ICCPR), incorporating the three essential tests of legality, necessity and proportionality, and legitimacy, necessary for any restriction of these rights. The right to the protection of personal data should be respected.

Or. en

Amendment 558
Nadine Morano

Proposal for a directive
Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

These tools shall include, inter alia, technical surveillance, infiltration, targeted maritime controls, as well as access to communications and logistical data from private or associative entities involved in the transport or disembarkation of third-country nationals. Member States shall ensure that such means can be mobilised, including in the context of search and rescue operations at sea, where there are serious and consistent indications of coordination with smuggling networks.

Or. fr

Amendment 559
Fabienne Keller, Abir Al-Sahlani, Sophie Wilmès, Raquel García Hermida-Van Der Walle, Irena Joveva, Jan-Christoph Oetjen

Proposal for a directive
Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Where clear indications of the involvement of organised criminal networks are present, Member States may provide for the use of special investigative

tools by competent authorities. It shall be carried out in strict compliance with the principles of necessity and proportionality, and with full respect for the right to private and family life, as enshrined in Union law.

Or. en

Justification

Special investigative tools can be useful but should be restrained to cases involving organized criminal networks and with respect with fundamental rights.

Amendment 560

Karlo Ressler, Lena Düpont

Proposal for a directive

Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

To support the effective use of the investigative tools referred to in paragraph 1, Member States are invited to develop and exchange typologies and operational indicators to enhance the understanding and detection of the facilitation of unauthorised entry, transit or stay, particularly where such facilitation involves the use of digital technologies.

Or. en

Justification

Effective detection of migrant smuggling increasingly depends on identifying evolving patterns, particularly those involving digital tools. Developing and exchanging typologies and operational indicators supports a more informed use of investigative tools and fosters cross-border understanding of smuggling methods, in line with the Directive's preventive objectives.

Amendment 561

Nadine Morano

Proposal for a directive
Article 16 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Member States shall facilitate the rapid and secure exchange of relevant information on irregular migration routes, vessels that may be used for the illicit transport of migrants, as well as natural or legal persons suspected of working directly or indirectly with smuggling networks.

Or. fr

Amendment 562
Karlo Ressler, Lena Düpont

Proposal for a directive
Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16a

The Commission shall compile and regularly update the information provided by Member States pursuant to paragraph 1a, with a view to enhancing operational coordination, facilitating the exchange of best practices, and supporting the development of Union-wide analytical tools concerning the facilitation of unauthorised entry, transit or stay, particularly where such facilitation involves the use of digital technologies.

Or. en

Justification

Centralising and updating Member State insights on facilitation typologies and operational indicators is essential for effective Union-wide coordination. This amendment ensures that information gathered under Article 16(1a) contributes meaningfully to a shared analytical capacity, particularly in addressing digital-facilitated smuggling activities.

Amendment 563

Erik Marquardt

Proposal for a directive

Article 17 – title

Text proposed by the Commission

Amendment

Data collection and statistics

Statistics

Or. en

Amendment 564

Erik Marquardt

Proposal for a directive

Article 17 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall *collect* statistical data *disaggregated by the type of* criminal *offence* referred to in Articles 3, 4 and 5.

1. Member States shall *ensure that a system is in place for the collection, development, production and dissemination of anonymised* statistical data *on* criminal *offences* referred to in Articles *3(1)* and 5.

Or. en

Amendment 565

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall *collect* statistical data *disaggregated by the type of* criminal offence referred to in *Articles 3, 4 and 5*.

1. Member States shall *ensure that a system is in place for the recording, production and provision of anonymised* statistical data *on the* criminal offence referred to in *Article 3*.

Or. en

Amendment 566

Fabienne Keller, Abir Al-Sahlani, Sophie Wilmès, Raquel García Hermida-Van Der Walle, Irena Joveva

Proposal for a directive

Article 17 – paragraph 2 – introductory part

Text proposed by the Commission

2. *The* statistical data referred to in paragraph 1 shall include, *at least*, the following:

Amendment

2. *Without prejudice to reporting obligations laid down in other Union legal acts, Member States shall, on an annual basis, submit to the Commission* statistical data referred to in paragraph 1 *which* shall include, *as a minimum*, the following *existing available data*:

(a) the number of third-country nationals who were the object of the criminal offence, disaggregated by citizenship, sex and age (child/adult);

(b) the number of natural persons prosecuted for criminal offences referred to in this Directive;

(c) the number of legal persons prosecuted for criminal offences referred to in this Directive;

(d) the number of decisions of the prosecution services; (e) the number of final court decisions (conviction, acquittal);

(f) the number of natural persons convicted of criminal offences referred to in this Directive ;

(g) the number of natural persons subjected to penalties disaggregated by the type and level of penalty (imprisonment, fines, others) sex and citizenship;

(h) the number of legal persons convicted for criminal offences referred to in this Directive;

(i) the number of legal persons sanctioned following a conviction, disaggregated by type of sanction (fines, others);

Or. en

Justification

Some of the data proposed by the Commission does not seem relevant to assess the effectiveness of the policy to combat migrant smuggling. It is proposed to streamline the data

collection required of Member States.

Amendment 567

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 2 – point a

Text proposed by the Commission

(a) the number of third-country nationals who were **subject to** the criminal offence, disaggregated by citizenship, sex and age (child/adult);

Amendment

(a) the number of third-country nationals who were **victims of** the criminal offence, disaggregated by citizenship, sex and age (child/adult);

Or. en

Amendment 568

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(a a) the number of persons suspected of the offences referred to in Article 3, disaggregated by sex, age groups (child/adult), citizenship;

Or. en

Amendment 569

Erik Marquardt

Proposal for a directive

Article 17 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(b a) the number of natural persons investigated for criminal offences referred to in this Directive, disaggregated by sex and citizenship;

Amendment 570

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 2 – point c

Text proposed by the Commission

(c) the number of natural persons prosecuted for criminal offences referred to in this Directive, disaggregated by sex **and** citizenship;

Amendment

(c) the number of natural persons prosecuted for criminal offences referred to in this Directive, disaggregated by sex, **age (child/adult)**, citizenship, **and nature of the final decision to prosecute**;

Or. en

Amendment 571

Mary Khan

Proposal for a directive

Article 17 – paragraph 2 – point c

Text proposed by the Commission

(c) the number of natural persons prosecuted for criminal offences referred to in this Directive, disaggregated by sex **and** citizenship;

Amendment

(c) the number of natural persons prosecuted for criminal offences referred to in this Directive, disaggregated by sex, citizenship, **nationality and religion**;

Or. en

Amendment 572

Erik Marquardt

Proposal for a directive

Article 17 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c a) the number of legal persons investigated for criminal offences referred to in this Directive, disaggregated by place

of establishment;

Or. en

Amendment 573

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) the number of legal persons prosecuted for criminal offences referred to in this Directive, disaggregated by place of establishment;

deleted

Or. en

Amendment 574

Mary Khan

Proposal for a directive

Article 17 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) the number of natural persons convicted of criminal offences referred to in this Directive, disaggregated by sex *and* citizenship;

(g) the number of natural persons convicted of criminal offences referred to in this Directive, disaggregated by sex, citizenship, *nationality and religion*;

Or. en

Amendment 575

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) the number of natural persons convicted of criminal offences referred to

(g) the number of natural persons convicted of criminal offences referred to

in this Directive, disaggregated by sex and citizenship;

in this Directive, disaggregated by sex, **age (child/adult)** and citizenship;

Or. en

Amendment 576

Mary Khan

Proposal for a directive

Article 17 – paragraph 2 – point h

Text proposed by the Commission

(h) the number of natural persons subjected to penalties disaggregated by the type and level of penalty (imprisonment, fines, others) sex **and** citizenship;

Amendment

(h) the number of natural persons subjected to penalties disaggregated by the type and level of penalty (imprisonment, fines, others) sex, citizenship, **nationality and religion**;

Or. en

Amendment 577

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 2 – point h

Text proposed by the Commission

(h) the number of natural persons subjected to penalties disaggregated by the type and level of penalty (imprisonment, fines, others) sex and citizenship;

Amendment

(h) the number of natural persons subjected to penalties disaggregated by the type and level of penalty (imprisonment, fines, others) sex, **age (child/adult)** and citizenship;

Or. en

Amendment 578

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 2 – point i

Text proposed by the Commission

Amendment

(i) the number of legal persons convicted for criminal offences referred to in this Directive and sanctioned; *deleted*

Or. en

Amendment 579

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 2 – point j

Text proposed by the Commission

Amendment

(j) the number of legal persons sanctioned disaggregated by place of establishment and type of sanction (fines, others); *deleted*

Or. en

Amendment 580

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 2 – point k

Text proposed by the Commission

Amendment

(k) the average length of *courts* proceedings of cases in first instance, second instance and cassation.

(k) the average length of *court* proceedings of cases in first instance, second instance and cassation.

Or. en

Amendment 581

Erik Marquardt

Proposal for a directive

Article 17 – paragraph 3

Text proposed by the Commission

3. Member States shall, on an annual basis and by 1 July each year, publish, in a machine-readable **and** disaggregated format, the statistical data referred to in paragraph 2 for the previous year and transmit it to the Commission.

Amendment

3. Member States shall, on an annual basis and by 1 July each year, publish, in a machine-readable, disaggregated **and anonymised** format, the statistical data referred to in paragraph 2 for the previous year and transmit it to the Commission.

Or. en

Amendment 582

Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive

Article 17 – paragraph 3

Text proposed by the Commission

3. Member States shall, on an annual basis and by 1 July each year, publish, in a machine-readable and **disaggregated** format, the statistical data referred to in paragraph 2 for the previous year and transmit it to the Commission.

Amendment

3. Member States shall, on an annual basis and by 1 July each year, publish, in a machine-readable and **anonymised** format, the statistical data referred to in paragraph 2 for the previous year and transmit it to the Commission.

Or. en

Amendment 583

Mariusz Kamiński, Maciej Wąsik, Joachim Stanisław Brudziński, Jacek Ozdoba, Jadwiga Wiśniewska

Proposal for a directive

Article 17 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall transmit to the Commission, within the period referred to in paragraph 3, data enabling persons and legal entities subject to this Directive to be identified; on this basis, the Commission shall establish and make publicly available an EU register of migrant smugglers;

Amendment 584
Erik Marquardt

Proposal for a directive
Article 17 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The Commission shall, at least every three years, publish a report based on the statistical data transmitted by the Member States. That report shall be published for the first time ... [three years from the date of entry into force of this Directive].

Or. en

Amendment 585
Ilaria Salis, Damien Carême, Estrella Galán

Proposal for a directive
Article 17 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The Commission shall compile an annual report based on the Member States input and submit it to the European Parliament.

Or. en

Amendment 586
Cecilia Strada

Proposal for a directive
Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17a

Saving clause

Nothing in this Directive shall affect the other rights, obligations and responsibilities of Member States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non refoulement as contained therein.

Or. en